रजिस्ट्री सं० डी० एल० (एन) 04/0007/2003—05

REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 25] नई दिल्ली, जून 18—जून 24, 2006, शनिवार/ज्येष्ठ 28—आषाढ़ 3, 1928
No. 25] NEW DELHI, JUNE 18—JUNE 24, 2006, SATURDAY/JYAISTHA 28—ASADHA 3, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 7 जून, 2006

का.आ. 2383.-- केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्नाटक राज्य सरकार के सचिवालय विधान सौध की अधिसूचना सं. एचडी 42 पीसीआर 2006 दिनांक 27 मार्च, 2006 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री संदीप खंडेलवाल, खंडेलवाल एसोसिएट्स, नई दिल्ली (2) श्री नरेन्द्र मोदी, मुंबई और (3) मैसर्स राजश्री पैकेजर्स लि., मंगलौर एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध उनके कपटपूर्ण कार्यों के लिए भारतीय दंड संहिता, 1860 (1860 का अधिनियम 45) की धारा 120-बी सपठित धारा 420, 467, 468, 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) सपठित धारा 13(1) (डी) के अधीन मामला आरसी सं. 7(ई)/2005/ईओडब्ल्यू-I दिल्ली और उपर्युक्त अपराध से संबंधित अथवा संसक्त प्रयत्न, दुष्प्रेरण और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/13/2006-ए.वी.डी. II]
चद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel & Training)
New Delhi, the 7th June, 2006

S.O. 2383.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka Secretariat Vidhana Souda vide notification No. HD 42 PCR 2006 dated 27th March 2006, extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to whole of the State of Karnataka for investigation of case RC7(E)/2005/EOW-I/DLI under Section 120-B read with Section 420, 467, 468, 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) against (1) Shri Sandip Khandelwal, Khandelwal Associates, New Delhi, (2) Shri Narendra Modi, Mumbai and (3) M/s. Rajshree Packagers Limited, Mangalore for their fraudulent acts and any other public servants or persons and attempts, abetments and conspiracy in relation to, or in connection with the said offence, and any other offences committed in the course of the same transaction arising out of the same facts.

[No. 228/13/2006-A.V.D.-II]
CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 13 जून, 2006

का.आ. 2384.—केन्द्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय अन्वेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को विचारण न्यायालयों में दिल्ली विशेष पुलिय स्थापना द्वारा संस्थित मामलों के अभियोजन और किसी अन्य राज्य अथवा संघ राज्य क्षेत्र जिस पर पूर्वोक्त धारा के उपबंध लागू होते हैं, में विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों, पुनरीक्षण अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :—

1. श्री एस. कृष्ण कुमार
2. श्री शैलेश नारायण पाठक
3. श्री दलजीत सिंह चावला
4. श्री कपिल मुंडा
5. श्री माधव चरण प्रुस्थी
6. श्री अनिल कुमार तंवर
7. श्रीमती गीता सिंह
8. श्री ब्रजेश कुमार सिन्हा
9. श्री रमन कुमार
10. श्री सुरेश कुमार बत्रा

[सं. 225/1/2004-ए.वी.डी.-II]

चन्द्र प्रकाश, अवर सचिव

New Delhi, the 13th June, 2006

S.O. 2384.—In exercise of the powers conferred by sub-clause (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints following Prosecuting Officers of the Central Bureau of Investigation as Special Public Prosecutor for conducting cases instituted by the Delhi Special Police Establishment in trials courts and appeals, revisions or other matters arising out of the cases in revisional or appellate Courts, established by law in any State or Union Territory to which the provisions of the aforesaid section apply :—

1. Shri S. Krishna Kumar,
2. Shri Shailesh Narayan Pathak,
3. Shri Daljeet Singh Chawla,
4. Shri Kapil Munda,
5. Shri Madhav Charan Prusthy,
6. Shri Anil Kumar Tanwar,
7. Smt. Geeta Singh,
8. Shri Brijesh Kumar Sinha,
9. Shri Raman Kumar,
10. Shri Suresh Kumar Batra.

[No. 225/1/2004-A.V.D.-II]

CHANDRA PRAKASH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 7 जून, 2006

(आयकर)

का.आ. 2385.— सर्व साधारण की जानकारी के लिए एतद्द्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 01-04-2003 से दिनांक 31-3-2006 तक की अवधि के लिए दि एनर्जी एंड रिसोर्सिस इन्स्टीट्यूट, नई दिल्ली को निम्नलिखित शर्तों के अधीन 'संस्था' श्रेणी के अंतर्गत अनुमोदित करती है :—

(i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।

(ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त/आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में सर्दीभित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा:—

(क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उपधारा (1) के खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 133/2006/फा.सं. 203/22/2005-आयकर नि.-II]

दीपक गर्ग, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 7th June, 2006

INCOME TAX

S.O. 2385.—It is hereby notified for general information that the organization **The Energy aad Resources Institute, New Delhi** has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2003 to 31-3-2006 under the category 'Institution' subject to the following conditions :—

(i) The approved organization shall maintain separate accounts for its research activities.

(ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

(iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

(a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35,

(b) certifying that the expenditure incurred was for scientific research.

[Notification No. 133/2006/F.No. 203/22/2005-ITA-II]

DEEPAK GARG, Under Secy.

नई दिल्ली, 7 जून, 2006

आयकर

का.आ. 2386.-सर्व साधारण की जानकारी के लिए एतद्द्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 03-10-2005 से दिनांक 31-3-2007 तक की अवधि के लिए डा. वेंकटराव डावले मेडिकल फाउंडेशन, निलंगेकर हॉस्पिटल, जिला लातूर को निम्नलिखित शर्तों के अधीन 'अन्य संस्था' श्रेणी के अंतर्गत अनुमोदित करती है :--

(i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।

(ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त/आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में सर्दीमत आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा:--

(क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35(1)(ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 133/2006/फा.सं. 203/21/2006 आयकर नि.-II]

दीपक गर्ग, अवर सचिव

New Delhi, the 7th June, 2006

INCOMETAX

S.O. 2386.—It is hereby notified for general information that the organization **Dr. Venkatrao Dawle Medical Foundation, Nilangekar Hospital, Distt. Latur** has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from **3-10-2005 to 31-3-2007** under the category 'other Institution' subject to the following conditions :—

(i) The approved organization shall maintain separate accounts for its research activities.

(ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

(iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

(a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.

(b) certifying that the expenditure incurred was for scientific research.

[Notification No. 132/2006/F.No. 203/21/2006-ITA-II]

DEEPAK GARG, Under Secy.

नई दिल्ली, 14 जून, 2006

का.आ. 2387.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड के निम्नलिखित कार्यालय को, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

अधीक्षक
सीमाशुल्क निवारक स्टेशन
न्यूमा लेह।

[फा. सं. 11013(01) 2005-हिन्दी- II]

मधु शर्मा, निदेशक (राजभाषा)

New Delhi, the 14th June, 2006

S.O. 2387.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following office under the Board of Central Excise & Customs, Department of Revenue the 80% staff whereof have acquired the working knowledge of Hindi.

Superintendent
Customs Preventive Station
Newma Leh.

[F. No. 11013(01)2005-Hindi-II]

MADHU SHARMA, Director (OL)

आर्थिक कार्य विभाग

(बैंकिंग प्रभाग)

नई दिल्ली, 20 जून, 2006

का.आ. 2388.-भारतीय लघु उद्योग विकास बैंक अधिनियम 1989, वर्ष 2000 में यथा संशोधित, की धारा 6(1)(ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्द्वारा, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) में निदेशक, श्री तरुण बजाज को श्री विनोद राय, विशेष सचिव (वित्तीय क्षेत्र) के स्थान पर तत्काल प्रभाव से तथा अगले आदेशों तक के लिए, भारतीय लघु उद्योग विकास बैंक (सिडबी) के बोर्ड में निदेशक के रूप में नामित करती है।

[फा.सं. 24(5)2002-आई एफ-I]

डी.पी. भारद्वाज, अवर सचिव

DEPARTMENT OF ECONOMIC AFFAIRS

(BANKING DIVISION)

New Delhi, the 20th June, 2006

S.O. 2388.—In exercise of the powers conferred by Section 6(1)(C) of the Small Industries Development Bank of India act, 1989 as amended in the year 2000, the Central Government hereby nominates Shri Tarun Bajaj, Director in the Ministry of Finance, Department of Economic Affairs (Banking Division) as a Director on the Board of small Industries Development Bank of India (SIDBI) with immediate effect and until further orders *vice* Shri Vinod Rai, Special Secretary (FS).

[F.No. 24(5) 2002-IF-I]

D.P. BHARDWAJ, Under Secy.

परमाणु ऊर्जा विभाग

मुम्बई, 3 मई, 2006

का.आ. 2389.-सार्वजनिक परिसर (अनधिकृत दखलकार की बेदखली) अधिनियम 1971 (सं. 1971 का 40) के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार, एस ओ सं. 2815 पर, दिनांक 04-10-2003 को भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) में प्रकाशित भारत सरकार, परमाणु ऊर्जा विभाग की दिनांक 28 अगस्त 2003 की अधिसूचना सं. 5/7(12)/96-एसयूएस/363 में एतद्द्वारा निम्नलिखित संशोधित करती है अर्थात् :

उपरोक्त अधिसूचना में दी गई सारणी के स्थान पर निम्नलिखित सारणी प्रतिस्थापित की जाएगी अर्थात् :

सारणी

अधिकारी का पद	सार्वजनिक परिसर की श्रेणियाँ तथा क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
प्रशासनिक अधिकारी-III नाभिकीय ईंधन सम्मिश्र परमाणु विभाग भारत सरकार ईसीआईएल पोस्ट हैदराबाद-500062 आंध्र प्रदेश राज्य	परमाणु ऊर्जा विभाग, भारत सरकार के स्वामित्व अथवा प्रशासनिक नियंत्रण के तहत आने वाले, आंध्र प्रदेश के रंगा रेड्डी जिला स्थित परिसर तथा आंध्र प्रदेश राज्य में हैदराबाद के अमीरपेट स्थित दिव्यशक्ति अपार्टमेंट के छह फ्लैट (फ्लैट सं. 4-002, 4-103, 4-503, 4-603, 4-604)

[सं. 5/7(12)/96-एसयूएस/3527]

डी. सुरेन्द्रन, अवर सचिव

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 3rd May, 2006

S.O. 2389.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendments in the Notification No. 5/7(12)/96-SUS/363 dated August 28, 2003 of the Governrnent of India, Department of Atomic Energy published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 04-10-2003 against S.O. No. 2815 namely:

In the said notification, for the Table the following Table shall be substituted, namely :—

TABLE

Designation of the Officer	Categories of Public Premises and local limits of Jurisdiction
(1)	(2)
Administrative Officer-III Nuclear Fuel Complex Department of Atomic Energy Government of India ECIL Post Hyderabad-500 062 Andhra Pradesh State	Premises belonging to or under the administrative control of the Department of Atomic Energy Govt. of India in Ranga Reddy District, Andhra Pradesh as well as six flats (Flat No. 4-002, 4-103, 4-503, 4-504, 4-603 and 4-604) in Divyashakthi Apartments, Ameerpet, Hyderabad, Andhra Pradesh State.

[No. 5/7(12)/96-SUS/3527]

D. SURENDRAN, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 15 जून, 2006

का.आ. 2390.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1)(ख) के उपबंध के अनुसरण में डा. एस.के. अग्रवाल को 30-4-2004 से दिल्ली विश्वविद्यालय की सीनेट द्वारा उनका निर्वाचन किए जाने पर भारतीय आयुर्विज्ञान परिषद् के सदस्य के रूप में नियुक्त किया गया।

दिल्ली विश्वविद्यालय के अन्तर्गत मौलाना आजाद मेडिकल कालेज ने सूचना दी है कि दिल्ली विश्वविद्यालय के चिकित्सा संकाय में डा.एस.के. अग्रवाल की सदस्यता केन्द्रीय स्वास्थ्य सेवा से उनकी स्वैच्छिक सेवानिवृत्ति होने के कारण 13-5-2005 को समाप्त हो गई। इसलिए, डा. एस.के. अग्रवाल दिल्ली विश्वविद्यालय का प्रतिनिधित्व करने वाले भारतीय आयुर्विज्ञान परिषद् के सदस्य नहीं रह गए हैं।

अतः अब, उक्त अधिनियम की धारा 7 की उप-धारा (3) के उपबंध के अनुसरण में डा. एस.के. अग्रवाल द्वारा 13-5-2005 से परिषद् में सीट रिक्त कर दी गई समझी जाएगी।

[सं. वी-11013/2/2001-एमई(नीति-I)]

के.वी.एस.राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 15th June, 2006

S.O. 2390.—Whereas in pursuance of the provision of Sub-section (1)(b) of Section 3 of the Indian Medical Act, 1956 (102 of 1956) Dr. S.K. Aggarwal was appointed as a member of the Medical Council of India on his election by Senate of Delhi University with effect from 30-4-2004.

Whereas Maulana Azad Medical College under University of Delhi, has informed that membership of Dr. S.K. Aggarwal on the Medical Faculty of Delhi University expired on 13-5-2005 due to his voluntary retirement from Central Health Service. Therefore, Dr. S.K. Aggarwal has ceased to be a member of Medical Council of India representing University of Delhi.

Now, therefore, in pursuance of the provision of Sub-section (3) of Section 7 of the said Act, Dr. S.K. Aggarwal shall be deemed to have vacated his seat in the Council with effect from 13-5-2005.

[No. V-11013/2/2001-ME (Policy-I)]

K.V.S. RAO, Under Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

दूरसंचार विभाग

(राजभाषा अनुभाग)

नई दिल्ली, 14 जून, 2006

का.आ. 2391.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, हरियाणा परिमंडल, भा.सं.नि.लि., अम्बाला

उपमंडल अभियंता, दूरभाष केन्द्र, कालका

[सं. ई. 11016/1/2005-(रा.भा.)]

हरीश चन्द्र जयाल, संयुक्त सचिव

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

New Delhi, the 14th June, 2006

S.O. 2391.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom., Haryana Circle, B.S.N.L., Ambala

Sub Divisional Engineer, Telephone Exchange, Kalka.

[No. E. 11016/1/2005 (O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

नई दिल्ली, 14 जून, 2006

का.आ. 2392.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन

निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, हिमाचल प्रदेश परिमंडल, भा.सं.नि.लि., शिमला

1. मंडल अभियंता (एम.एस.सी.) मोबाइल सेवाएं, केन्द्रीय तारघर, शिमला (हि.प्र.)
2. उपमंडल अभियंता (प्रचालन एवं अनुरक्षण) मोबाइल सेवाएं, मंडी (हि.प्र.)
3. उपमंडल अभियंता (प्रचालन एवं अनुरक्षण) मोबाइल सेवाएं, हमीरपुर (हि.प्र.)
4. उपमंडल अभियंता (प्रचालन एवं अनुरक्षण) मोबाइल सेवाएं, धर्मशाला (हि.प्र.)

[सं. ई. 11016/1/2005-(रा.भा.)]

हरीश चन्द्र जयाल, संयुक्त सचिव

New Delhi, the 14th June, 2006

S.O. 2392.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom., Himachal Pradesh Circle, B.S.N.L., Shimla

1. Divisional Engineer (M.S.C.) Mobile Services, Central Telegraph Office, Shimla (H.P.)
2. Sub Divisional Engineer (Operation & Maintenance) Mobile Services, Mandi (H.P.)
3. Sub Divisional Engineer (Operation & Maintenance) Mobile Services, Hamirpur (H.P.)
4. Sub Divisional Engineer (Operation & Maintenance) Mobile Services, Dharamshala (H.P.)

[No. E. 11016/1/2005 (O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

नई दिल्ली, 14 जून, 2006

का.आ. 2393.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, पश्चिम बंगाल परिमंडल, भा.सं.नि.लि., कोलकाता

[सं. ई. 11016/1/2005-(रा.भा.)]

हरीश चन्द्र जयाल, संयुक्त सचिव

New Delhi, the 14th June, 2006

S.O. 2393.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom., West Bengal Circle, B.S.N.L., Kolkata.

[No. E. 11016/1/2005 (O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 14 जून, 2006

का.आ. 2394.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे वापस ले लिये गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	वापस लेने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1584 : 1991 वस्त्रादि—कमीज का रेशमी कपड़ा—विशिष्टि (पहला पुनरीक्षण)	—	अप्रैल 2006

(1)	(2)	(3)	(4)
2.	आई एस 1687 : 1991 वस्त्रादि– रेशमी कोरा कपड़ा– विशिष्टि (पहला पुनरीक्षण)	–	अप्रैल 2006
3.	आई एस 3357 : 1991 मटका रेशमी कपड़ा– विशिष्टि (पहला पुनरीक्षण)	–	अप्रैल 2006
4.	आई एस 3358 : 1991 डुपिओन रेशम का कपड़ा– विशिष्टि (पहला पुनरीक्षण)	–	अप्रैल 2006
5.	आई एस 3359 : 1991 कोट बनाने के लिए रेशमी कपड़ा– विशिष्टि (पहला पुनरीक्षण)	–	अप्रैल 2006
6.	आई एस 3416 (भाग 2) : 1991 पालिएस्टर और काटन या पुनर्जनित सेल्यूलोज के मिश्रण की गुणात्मक रासायनिक विश्लेशण की पद्धति भाग 2 ट्राइक्लोरो एसिटिक एसिड मिथाइलीन थ्लरेराइड टी सी ए/एम सी पद्धति	–	अप्रैल 2006

अब ये भारतीय मानक बिक्री के लिये उपलब्ध नहीं होंगे।

[संदर्भ : टीएक्सडी/जी-25]

एम.एस. वर्मा, निदेशक एवं प्रमुख (टीएक्सडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 14th June, 2006

S.O. 2394.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule produced below, have been withdrawn on the date indicated against each :

SCHEDULE

Sl. No.	No. of Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Withdrawn
(1)	(2)	(3)	(4)
1.	IS : 1584 : 1991 Textiles—Silk Shirting—Specification (First Revision)	Nil	April 2006
2.	IS : 1687 : 1991 Textiles—Silk Kora (Loomstate) Cloth—Specification (First Revision)	Nil	April 2006
3.	IS : 3357 : 1991 Matka—Silk Fabric—Specification (First Revision)	Nil	April 2006
4.	IS : 3358 : 1991 Dupion—Silk Fabric—Specification (First Revision)	Nil	April 2006
5.	IS : 3359 : 1991 Silk coating—Specification (First Revision)	Nil	April 2006
6.	IS : 3416 (Part 2) : 1999 Method of quantitative chemical analysis of mixtures of polyester fibres with cotton or regenerated cellulose : Part 2 Trichloro Acetic Acid/Methylene Chloride (TCA/MC)Method	Nil	April 2006

Henceforth, these standards will not be available for sale.

[Ref : TXD/G-25]

M.S. VERMA, Director & Head (Textiles)

नई दिल्ली, 15 जून, 2006

का.आ. 2395.–भारतीय मानक ब्यूरो नियम 1987, के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गये मानक (कों) में संशोधान किया गया/किये गये हैं :–

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 6347 : 2003	संशोधन संख्या 1 मई 2006	जून 2006

इस संशोधन प्रति भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों, नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरूवनन्तापुरम में बिकी हेतु उपलब्ध हैं।

[संदर्भ : टी एक्स डी/जी-25]

एम.एस. वर्मा, निदेशक एवं प्रमुख (टीएक्सडी)

New Delhi, the 15th June, 2006

S.O. 2395.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. & year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS : 6347 : 2003	Amendment No. 1 May 2006	June 2006

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolcatta, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TXD/G-25]

M.S. VERMA, Director & Head (Textiles)

नई दिल्ली, 15 जून, 2006

का.आ. 2396.-भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15648 : 2006 चूना-पोजोलाना के मिश्रण में उपयोग के लिए चूर्ण ईंधन राख-विशिष्टि	–	30 अप्रैल, 2006

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरूवनन्तापुरम में बिकी हेतु उपलब्ध हैं।

[संदर्भ : सी ई डी/राजपत्र]

जे. सी. अरोड़ा, वैज्ञानिक 'ई' व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 15th June, 2006

S.O. 2396.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS : 15648 : 2006 Specification for Pulverized Fuel Ash for Lime-Pozzolana mixture Applications	—	30 April 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkatta, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. CED/Gazette]

J.C. ARORA, Sc. 'E' & Head (Civil Engg.)

शहरी विकास मंत्रालय

नई दिल्ली, 19 जून, 2006

का. आ. 2397.-दिल्ली नगर कला आयोग अधिनियम, 1973 (1974 का 1) की धारा 4 और 5 द्वारा दी गई शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा डा. एम. एम. कुट्टी, संयुक्त सचिव (दिल्ली तथा भूमि), शहरी विकास मंत्रालय को दिल्ली नगर कला आयोग में तत्काल प्रभाव से 3 वर्ष के लिए अथवा उनके द्वारा आयोग का कार्य करते रहने तक इनमें से जो पहले हो, सदस्य के रूप में नियुक्त करती है।

[फा सं. ए-11013/8/2004-डीडीआईए (पार्ट)]

परमजीत सिंह, डेस्क अधिकारी

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 19th June, 2006

S. O. 2397.—In exercise of the powers conferred by Sections 4 and 5 of the Delhi Urban Art Commission Act, 1973 (1 of 1974), the Central Government hereby appoints Dr. M.M. Kutty, Joint Secretary (Delhi and Lands), Ministry of Urban Development, as Member of the Delhi Urban Art Commission with immediate effect, for the period of three years or the date up to which he shall be looking after the affairs of the Commission, whichever is earlier.

[File No. A-11013/8/2004-DDIA (Pt.)

PARMJIT SINGH, Desk Officer

नई दिल्ली, 20 जून, 2006

का. आ. 2398.—दिल्ली विकास प्राधिकरण अधिनियम, 1957 (1957 का 61) के खण्ड 3 के उप-खण्ड (3) की धारा (6) के साथ पठित उप-खण्ड (I) द्वारा दी गई शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा डा. एम. एम. कुट्टी, संयुक्त सचिव (दिल्ली तथा भूमि), शहरी विकास मंत्रालय को तत्काल प्रभाव से दिल्ली विकास प्राधिकरण के सदस्य के रूप में नामनिर्दिष्ट करती है।

[फा. सं. ए-11011/21/2004-डीडीआईए]

परमजीत सिंह, डेस्क अधिकारी

New Delhi, the 20th June, 2006

S. O. 2398.—In exercise of the powers conferred by Sub-section (1), read with clause (g) of Sub-section (3) of Section 3 of the Delhi Development Act, 1957 (61 of 1957), the Central Govemment hereby nominates Dr. M. M. Kutty, Joint Secretary (Delhi and Lands), Ministry of Urban Development, as Member of the Delhi Development Authority with immediate effect.

[File No. A-11011/21/2004-DDIA]

PARMJIT SINGH, Desk Officer

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 जून, 2006

का. आ. 2399.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 861 तारीख 02 मार्च, 2006, जो भारत के राजपत्र तारीख 04 मार्च, 2006, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुन्द्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 03 मई, 2006, को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03 ओ.आर-II दिनांक 25/11/2004 द्वारा लगाई गई शर्तों के अध्यधीन सभी विल्लंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : शाहपुरा		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	कल्याणपुरा	4764	0	04	86

[फा. सं. आर-31015/60/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 19th June, 2006

S. O. 2399.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 861 dated the 02nd March, 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 04th March, 2006, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 03rd May, 2006;

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03 OR-II dated 25-11-2004.

SCHEDULE

Tehsil : SHAHAPURA		District : JAIPUR	State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1.	KALYANPURA	4764	0	04	86

[F. No. R-31015/60/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 19 जून, 2006

का. आ. 2400.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 859 तारीख 28 फ़रवरी, 2006, जो भारत के राजपत्र तारीख 04 मार्च, 2006, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुन्द्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 06 मई, 2006, को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, इस मंत्रालय के सहमति पत्र सं. आर - 31015/7/03 ओ.आर-II दिनांक 25/11/2004 द्वारा लगाई गई शर्तो के अध्यधीन सभी विल्लंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : अजमेर	जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	लक्ष्मीपुरा	335	0	04	10

[फा. सं. आर-31015/74/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 19th June, 2006

S. O. 2400.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 859 dated the 28th February, 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 04th March, 2006, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 06th May, 2006;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter no. R-31015/7/03 OR- II dated 25-11-2004.

SCHEDULE

Tehsil : AJMER	District : AJMER		State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1.	LACHHIPURA	335	0	04	10

[F. No. R-31015/74/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 20 जून, 2006

का. आ. 2401.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री पृथ्वी सिंह, सक्षम प्राधिकारी (हरियाणा), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, उत्तरी क्षेत्र पाइपलाइन्स प्रभाग, पी.ओ. पानीपत रिफाइनरी, बहोली, पानीपत–132140, हरियाणा को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : कैथल जिला : कैथल राज्य : हरियाणा

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
डीग	43	8	6	00	00	51
			15	00	00	76
		7	11	00	09	10
			20/1	00	04	56
			20/2	00	07	83
			21	00	03	55
			22	00	12	65
			23	00	06	07
			24	00	10	87
			25	00	05	31
		15	5	00	01	26
काकौत	5	9	16	00	02	28
		10	20	00	03	55
			21	00	10	67
		12	1	00	01	26
			9	00	00	51
			10	00	04	82
			11	00	02	28
			12	00	08	33
			19	00	10	67

[फा. सं. आर-25011/6/2006-ओ.आर.-I]

एस.के. चितकारा, अवर सचिव

New Delhi, the 20th June, 2006

S. O. 2401.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Panipat in the State of Haryana to Jallandhar in the State of Punjab, a pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Prithvi Singh, Competent Authority (Haryana), Indian Oil Corporation Limited, Northern Region Pipelines Division, P.O. Panipat Refinery, Baholi, Panipat-132140 (Haryana).

SCHEDULE

Tehsil: Kaithal **District: Kaithal** **State: Haryana**

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Dig	43	8	6	00	00	51
			15	00	00	76
		7	11	00	09	10
			20/1	00	04	56
			20/2	00	07	83
			21	00	03	55
			22	00	12	65

1	2	3	4	5	6	7
			23	00	06	07
			24	00	10	87
			25	00	05	31
		15	5	00	01	26
Kakaut	5	9	16	00	02	28
		10	20	00	03	55
			21	00	10	67
		12	1	00	01	26
			9	00	00	51
			10	00	04	82
			11	00	02	28
			12	00	08	33
			19	00	10	67

[F. No. R-25011/6/2006-O.R.-I]
S. K. CHITKARA, Under Secy.

नई दिल्ली, 20 जून, 2006

का. आ. 2402.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री पृथ्वी सिंह, सक्षम प्राधिकारी (हरियाणा), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, उत्तरी क्षेत्र पाइपलाइन्स प्रभाग, पी.ओ. पानीपत रिफाइनरी, बहोली, पानीपत–132140, हरियाणा को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : असंध जिला : करनाल राज्य : हरियाणा

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
कोताना	26	17	24/2	00	06	07
			25	00	12	65
		18	21	00	12	65
			22	00	09	10
			23	00	04	56
			24	00	00	25
		22	1	00	09	60
			2	00	12	65
			3	00	12	65
			10	00	02	78
		23	1	00	02	28
			5	00	02	28
			6	00	10	12
			7	00	12	65
			8	00	12	65
			9	00	12	39
			10	00	10	12
		24	1	00	12	65
			2/1	00	05	31
			2/2	00	05	31
			3/1	00	09	10
			4/2	00	11	13
			5	00	06	82
			6	00	05	56
			7/1	00	00	76

	2	3	4	5	6	7
कोताना	26	25	1	00	00	25
			2	00	03	30
			3	00	07	83
			4	00	12	14
			5	00	12	65
		26	1/2	00	05	31
			2	00	01	01
			3/2	00	07	83
			4/1	00	03	30
			4/3	00	04	82
			7/2	00	00	25
			8/1	00	03	03
			9	00	06	32
			10	00	08	33
		27	6	00	03	03
			53	00	02	53
			58	00	02	28
मुनक	28	152	21	00	03	55
			22/2	00	12	65
			23/1	00	00	51
		185	11	00	08	33
		186	2	00	01	01
			3	00	03	30
			6	00	05	81
			15	00	06	32
		224	12/2	00	07	58
			13	00	05	56
			17/2	00	02	02
			18	00	05	56
			19	00	00	25

1	2	3	4	5	6	7
मुनक	28	225	8/2	00	00	25
			13	00	11	38
			14/1	00	01	01
			14/3	00	00	25
		247	11	00	01	26
			19	00	06	57
			20	00	13	15
			22	00	08	09
			23	00	12	14
			24	00	00	25
		261	3	00	02	53
			4	00	14	67
			5	00	03	55
			6	00	11	13
		262	10	00	09	35
			11	00	05	31
			12	00	13	91
			13/1	00	01	01
			17	00	07	33
			18/1	00	07	08
			18/2	00	06	57
			19/1	00	00	51
			24	00	07	33
			25	00	12	39
		263	21	00	00	76
		266	1	00	12	14
			2	00	07	33
			3	00	02	28
			4	00	00	51
			7	00	08	33

1	2	3	4	5	6	7
मुनक	28	266	8	00	10	12
			9	00	05	06
			10	00	00	25
		267	1	00	02	02
			2	00	07	33
			3	00	12	14
			4	00	12	39
			5	00	12	39
			326	00	02	02
			376	00	16	19
			386	00	01	01
			406	00	00	25

[फा. सं. आर-25011/5/2006-ओ.आर.-1]

एस.के. चितकारा, अवर सचिव

New Delhi, the 20th June, 2006

S. O. 2402.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Panipat in the State of Haryana to Jallandhar in the State of Punjab, a pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Prithvi Singh, Competent Authority (Haryana), Indian Oil Corporation Limited, Northern Region Pipelines Division, P.O. Panipat Refinery, Baholi, Panipat-132140 (Haryana).

SCHEDULE

Tehsil: Asandh **District: Karnal** **State: Haryana**

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Kotana	26	17	24/2	00	06	07
			25	00	12	65
		18	21	00	12	65
			22	00	09	10
			23	00	04	56
			24	00	00	25
		22	1	00	09	60
			2	00	12	65
			3	00	12	65
			10	00	02	78
		23	1	00	02	28
			5	00	02	28
			6	00	10	12
			7	00	12	65
			8	00	12	65
			9	00	12	39
			10	00	10	12
		24	1	00	12	65
			2/1	00	05	31
			2/2	00	05	31
			3/1	00	09	10
			4/2	00	11	13
			5	00	06	82
			6	00	05	56
			7/1	00	00	76

1	2	3	4	5	6	7
Kotana	26	25	1	00	00	25
			2	00	03	30
			3	00	07	83
			4	00	12	14
			5	00	12	65
		26	1/2	00	05	31
			2	00	01	01
			3/2	00	07	83
			4/1	00	03	30
			4/3	00	04	82
			7/2	00	00	25
			8/1	00	03	03
			9	00	06	32
			10	00	06	33
		27	6	00	03	03
			53	00	02	53
			58	00	02	28
Munak	28	152	21	00	03	55
			22/2	00	12	65
			23/1	00	00	51
		185	11	00	08	33
		186	2	00	01	01
			3	00	03	30
			6	00	05	81
			15	00	06	32
		224	12/2	00	07	58
			13	00	05	56
			17/2	00	02	02
			18	00	05	56
			19	00	00	25

1	2	3	4	5	6	7
Munak	28	225	8/2	00	00	25
			13	00	11	38
			14/1	00	01	01
			14/3	00	00	25
		247	11	00	01	26
			19	00	06	57
			20	00	13	15
			22	00	08	09
			23	00	12	14
			24	00	00	25
		261	3	00	02	53
			4	00	14	67
			5	00	03	55
			6	00	11	13
		262	10	00	09	35
			11	00	05	31
			12	00	13	91
			13/1	00	01	01
			17	00	07	33
			18/1	00	07	08
			18/2	00	06	57
			19/1	00	00	51
			24	00	07	33
			25	00	12	39
		263	21	00	00	76
		266	1	00	12	14
			2	00	07	33
			3	00	02	28
			4	00	00	51
			7	00	08	33

1	2	3	4	5	6	7
Munak	28	266	8	00	10	12
			9	00	05	06
			10	00	00	25
		267	1	00	02	02
			2	00	07	33
			3	00	12	14
			4	00	12	39
			5	00	12	39
			326	00	02	02
			376	00	16	19
			386	00	01	01
			406	00	00	25

[F. No. R-25011/5/2006-O.R.-I]
S. K. CHITKARA, Under Secy.

नई दिल्ली, 20 जून, 2006

का. आ. 2403.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री पृथ्वी सिंह, सक्षम प्राधिकारी (हरियाणा), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, उत्तरी क्षेत्र पाइपलाइन्स प्रभाग, पी.ओ. पानीपत रिफाइनरी, बहोली, पानीपत–132140, हरियाणा को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : पानीपत जिला : पानीपत राज्य : हरियाणा

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
ददलाना	25	52	25/2	00	00	51
		53	21	00	06	07
			22	00	11	63
			23	00	12	39
			24	00	12	39
			25	00	12	39
		54	13	00	00	25
			14	00	06	07
			15/1/1	00	07	83
			16/2/1/2	00	01	76
			17	00	05	81
			18/1	00	07	58
			18/2	00	05	31
			19	00	12	65
			20	00	04	30
			21	00	08	84
			22	00	00	25
		55	16	00	12	39
			17	00	12	39
			18	00	12	39
			19	00	12	39
			20	00	11	63
		56	12	00	00	25
			13/1	00	00	51
			13/2	00	01	52

1	2	3	4	5	6	7
ददलाना	25	56	14	00	04	04
			15	00	02	02
			16	00	02	53
			17	00	08	33
			18	00	10	67
			19	00	12	39
			20	00	12	39
		62	1	00	06	07
			2	00	00	76
		63	4	00	03	55
			5/1	00	09	10
			148/2	00	00	25
			146	00	01	52

[फा. सं. आर-25011/7/2006-ओ.आर.-I]

एस.के. चितकारा, अवर सचिव

New Delhi, the 20th June, 2006

S. O. 2403.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas (LPG) from Panipat in the State of Haryana to Jallandhar in the State of Punjab, a pipeline should be laid by M/s Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification, issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Prithvi Singh, Competent Authority (Haryana), Indian Oil Corporation Limited, Northern Region Pipelines, P.O. Panipat Refinery, Baholi, Panipat-132140 (Haryana).

SCHEDULE

Tehsil: Panipat **District: Panipat** **State: Haryana**

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Dadlana	25	52	25/2	00	00	51
		53	21	00	06	07
			22	00	11	63
			23	00	12	39
			24	00	12	39
			25	00	12	39
		54	13	00	00	25
			14	00	06	07
			15/1/1	00	07	83
			16/2/1/2	00	01	76
			17	00	05	81
			18/1	00	07	58
			18/2	00	05	31
			19	00	12	65
			20	00	04	30
			21	00	08	84
			22	00	00	25
		55	16	00	12	39
			17	00	12	39
			18	00	12	39
			19	00	12	39
			20	00	11	63
		56	12	00	00	25
			13/1	00	00	51
			13/2	00	01	52
			14	00	04	04

1	2	3	4	5	6	7
Dadlana	25	56	15	00	02	02
			16	00	02	53
			17	00	08	33
			18	00	10	67
			19	00	12	39
			20	00	12	39
		62	1	00	06	07
			2	00	00	76
		63	4	00	03	55
			5/1	00	09	10
			148/2	00	00	25
			146	00	01	52

[F. No. R-25011/7/2006-O.R.-I]
S. K. CHITKARA, Under Secy.

नई दिल्ली, 20 जून, 2006

का. आ. 2404.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री पृथ्वी सिंह, सक्षम प्राधिकारी (हरियाणा), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, उत्तरी क्षेत्र पाइपलाइन्स प्रभाग, पी.ओ. पानीपत रिफाइनरी, बहोली, पानीपत–132140, हरियाणा को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : घरौंडा जिला : करनाल राज्य :हरियाणा

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
गुढा	23	75	17	00	00	76
			24	00	06	57
			25	00	07	58
		76	5	00	10	67
		77	1	00	05	31
			9	00	03	03
			10	00	12	39
			12/1	00	13	15
			13/1	00	00	76
			16	00	12	39
			17	00	11	63
			18/1	00	11	38
			19/2/2	00	00	25
			147	00	01	01
बेगमपुर	24		503	00	04	30
			688	00	02	02
			689	00	08	09
			691	00	08	84
			692	00	10	87
			733	00	08	33
			734	00	10	87
			735	00	10	87
			736	00	10	87
			749	00	10	37
			757	00	02	28

1	2	3	4	5	6	7
बेगमपुर	24		768	00	07	58
			770	00	11	13
			782	00	01	76
			783	00	09	35
			784	00	11	13
			790	00	02	28
			791	00	08	84
			793	00	11	13
			808	00	06	32
			1195	00	11	13
			1196	00	00	76
			1197	00	07	33
			1198	00	03	55
			1199	00	11	13
			1240	00	10	87
			1241	00	10	87
			1244	00	10	87
			1245	00	10	37
			1247	00	00	25
			1354	00	11	13
			1355	00	09	35
			1356	00	01	76
			1384	00	07	08
			1385	00	03	30
			1395/1	00	11	13
			1396	00	11	13
			1399	00	00	25
			1400	00	04	56
			1401	00	10	67
			1402	00	00	51

1	2	3	4	5	6	7
बेगमपुर	24		1403	00	06	82
			1404	00	11	13
			1450	00	11	13
			1451	00	11	13
			1452	00	09	35
			1453	00	01	52
			1461	00	09	86
			1462	00	00	25
			695	00	00	51
			1192	00	01	76
			1193	00	01	01
			1313	00	01	76

[फा. सं. आर-25011/5/2006-ओ.आर.-I]

एस.के. चितकारा, अवर सचिव

New Delhi, the 20th June, 2006

S. O. 2404.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas (LPG) from Panipat in the State of Haryana to Jallandhar in the State of Punjab, a pipeline should be laid by M/s Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification, issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Prithvi Singh, Competent Authority (Haryana), Indian Oil Corporation Limited, Northern Region Pipelines, P.O. Panipat Refinery, Baholi, Panipat-132140 (Haryana).

SCHEDULE

Tehsil: Gharaunda **District: Karnal** **State: Haryana**

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Gudha	23	75	17	00	00	76
			24	00	06	57
			25	00	07	58
		76	5	00	10	67
		77	1	00	05	31
			9	00	03	03
			10	00	12	39
			12/1	00	13	15
			13/1	00	00	76
			16	00	12	39
			17	00	11	63
			18/1	00	11	38
			19/2/2	00	00	25
			147	00	01	01
Begampur	24		503	00	04	30
			688	00	02	02
			689	00	08	09
			691	00	08	84
			692	00	10	87
			733	00	08	33
			734	00	10	87
			735	00	10	87
			736	00	10	87
			749	00	10	37
			757	00	02	28

1	2	3	4	5	6	7
Begampur	24		768	00	07	58
			770	00	11	13
			782	00	01	76
			783	00	09	35
			784	00	11	13
			790	00	02	28
			791	00	08	84
			793	00	11	13
			808	00	06	32
			1195	00	11	13
			1196	00	00	76
			1197	00	07	33
			1198	00	03	55
			1199	00	11	13
			1240	00	10	87
			1241	00	10	87
			1244	00	10	87
			1245	00	10	37
			1247	00	00	25
			1354	00	11	13
			1355	00	09	35
			1356	00	01	76
			1384	00	07	08
			1385	00	03	30
			1395/1	00	11	13
			1396	00	11	13
			1399	00	00	25
			1400	00	04	56
			1401	00	10	67
			1402	00	00	51

1	2	3	4	5	6	7
Begampur	24		1403	00	06	82
			1404	00	11	13
			1450	00	11	13
			1451	00	11	13
			1452	00	09	35
			1453	00	01	52
			1461	00	09	86
			1462	00	00	25
			695	00	00	51
			1192	00	01	76
			1193	00	01	01
			1313	00	01	76

[F. No. R-25011/5/2006-O.R.-I]
S. K. CHITKARA, Under Secy.

नई दिल्ली, 22 जून, 2006

का. आ. 2405.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड की संप्रवर्तक कम्पनी मेसर्स रिलाएंस इंडस्ट्रीज़ लिमिटेड है, के गोवो के उत्तरी/दक्षिणी अपतट (ऑफसोर) में खोज ब्लाकों और आन्ध्रप्रदेश राज्य की संरचनाओं से आन्ध्रप्रदेश राज्य में, मेडक जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम् 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है उस तारीख से जिसको उक्त अधिनियम की धारा (3) की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री पी. बुच्चारेडडी, सक्षम प्राधिकारी, मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, पाइपलाइन प्रयोजना, 403, "सी" एवरेस्ट ब्लाक, आदित्या एन्कलेव, अमीरपेट, हैदराबाद पिन-500038, आन्ध्रप्रदेश राज्य को लिखित रुप में आक्षेप भेज सकेगा ।

अनुसूचि					
गांव का नाम	सर्वे नंबर	सब-डिविजन नंबर	आर ओ यू अर्जित करने के लिए श्रेत्रफल		
			हेक्टर	एर	सि एर
1	2	3	4	5	6
मंडल : जहीराबाद	जिल्ला : मेदक				राज्य : आन्ध्रा प्रदेश
1) होथी (खुर्द)	15*	-	0	31	70
	63*	-	0	2	90
	64	-	0	57	20
	69*	-	1	06	90
1) हुग्गेल्लि	136*	-	1	12	75
	131*	-	5	72	75
मंडल : कोहीर	जिल्ला : मेदक				राज्य : आन्ध्रा प्रदेश
1) गुरुजवाडा	17*	-	0	70	55
मंडल : मुनिपल्लि	जिल्ला : मेदक				राज्य : आन्ध्रा प्रदेश
1) कामकोल	174*	-	0	70	05
2) इब्रहीमपूर	55*	-	0	12	45
	56*	-	0	15	70
मंडल : सदाशिवपेट	जिल्ला : मेदक				राज्य : आन्ध्रा प्रदेश
1) मिलिगिरिपेट	145*	-	2	10	60
1) सिद्दापूर	180*	-	0	02	15

* का.आ. 212, दिनांक: 22-01-2002 द्वारा पी.एम.पी. ऐक्ट, 1962 की धारा 3 की उपधारा (1) के अन्तर्गत सूचित किये गये सर्वे नंबर। इस प्रतिपादन नया विस्तीर्ण केलिए।

[फा. सं. एल-14014/8/2006-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 22th May, 2006

S. O. 2405.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of the natural gas from exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the Promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of Medak District in the state of Andhra Pradesh, a pipeline should be laid by M/s Gas Transportation and Infrastructure Company Limited;

And, whereas, it appears to the Central Government that for the purpose of laying such Pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri P. Butcha Reddy, Competent Authority, Gas Transportation and Infrastructure Company Limited, Pipeline Project, 403, 'C'-Everest Block, Aditya Enclave, Ameerpet, Hyderabad, Andhra Pradesh, Pin-500 038.

Schedule					
Village	Survey No.	Sub-Division No.	Area to be acquired for ROU		
			Hectare	Are	C-Are
1	2	3	4	5	6
Mandal : Zaheerabad	**District : Medak**			**State : Andhra Pradesh**	
1. Hothi(Khurd)	15*	-	0	31	70
	63*	-	0	2	90
	64	-	0	57	20
	69*	-	1	06	90
2. Huggelli	136*	-	1	12	75
	131*	-	5	72	75
Mandal : Koheer	**District : Medak**			**State : Andhra Pradesh**	
1. Gurujwada	17*	-	0	70	55
Mandal : Munipalli	**District : Medak**			**State : Andhra Pradesh**	
1. Kamkol	174*	-	0	70	05
2. Ibrahimpur	55*	-	0	12	45
	56*	-	0	15	70
Mandal : Sadashivpet	**District : Medak**			**State : Andhra Pradesh**	
1. Milgiripet	145*	-	2	10	60
2. Siddapur	180*	-	0	02	15

* Survey Nos. notified vide S.O. 212 dated 22-01-2002 u/s 3(1) of P&MP Act 1962. Present propasal is for additional extents.

[F. No. L-14014/8/2006-G.P.]
S. B. MANDAL Under Secy.

कोयला मंत्रालय

नई दिल्ली, 20 जून, 2006

का. आ. 2406.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त जाने की संभावना है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (I) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र का जिसका रेखांक सं. एमसीएल/एसएएमवी/सीजीएम (सीपी एण्ड पी)/2006/1 तारीख 8.2.2006 का निरीक्षण मुख्य महाप्रबंधक (सीपी एण्ड पी), महानदी कोलफील्ड्स लि., जागृति विहार, बुर्ला, सम्बलपुर-768020 (उड़ीसा), के कार्यालय में या कलेक्टर और जिला मजिस्ट्रेट, अंगुल, उड़ीसा में या कोयला नियंत्रक, 1, काउन्सिल हाउस स्ट्रीट, कोलकाता, के कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से 90 दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व/सम्पदा), महानदी कोलफील्ड्स लि., जागृति विहार, बुर्ला, सम्बलपुर-768020 (उड़ीसा) को भेजेंगे।

अनुसूची
कनिहा ओ सी पी (विस्तारण)
तलचर कोलफील्ड्स
जिला - अंगुल (उड़ीसा)

सभी अधिकार
(रेखांक सं. एमसीएल/एसएएमवी/सीजीएम (सीपी एण्ड पी)/2006/1 तारीख 8.2.06)

ब्लाक	क्र. सं.	ग्राम	पुलिस थाना और सं.	तहसील/ उप प्रभाग	जिला/राज्य	क्षेत्र (एकड़ में)	टिप्पणियां
क	1	कनिहा	कनिहा.60	तलचर	अंगुल/उड़ीसा	167.96	भाग
	2	पथरमुण्डा	कनिहा.91	तलचर	अंगुल/उड़ीसा	394.41	भाग
		तेलीसिगां	कनिहा.90	तलचर	अंगुल/उड़ीसा	25.84	भाग
	उप कुल					**588.21**	
ख	3	कंसमुण्डा	कनिहा.63	तलचर	अंगुल/उड़ीसा	75.48	भाग
	उप कुल					**75.48**	
ग	4	गुन्डुरीनाली	कनिहा.88	तलचर	अंगुल/उड़ीसा	64.42	भाग
	5	जरडा	कनिहा.89	तलचर	अंगुल/उड़ीसा	281.83	भाग
	6	तेलीसिंगा	कनिहा.90	तलचर	अंगुल/उड़ीसा	235.01	भाग
	7	मथरागडी आर.एफ.	कनिहा	तलचर	अंगुल/उड़ीसा	115.96	पूर्ण
	8	जमनिया	कनिहा.66	तलचर	अंगुल/उड़ीसा	87.99	भाग
	9	छेलिया	कनिहा.108	तलचर	अंगुल/उड़ीसा	584.10	भाग
	10	कमरई	कनिहा.106	तलचर	अंगुल/उड़ीसा	531.94	भाग
	11	दन्डासिंगा	कनिहा.102	तलचर	अंगुल/उड़ीसा	230.00	भाग
उप कुल						**2131.25**	
कुल						**2794.94**	
कुल 2794.94 (एकड़) (लगभग) या 1131.55 (हैक्टर) (लगभग)							

सीमा वर्णन :

ब्लाक-क :

क-खः रेखा बिन्दु " क " से आरंभ होती है जो पश्चिम दिशा की ओर ग्राम कनिहा में चलते हुए बिन्दु " ख ", जो ग्राम कनिहा और बलरामपुर के सम्मिलित सीमा पर स्थित है, पर पहुंचती है।

ख-गः रेखा बिन्दु " ख " से आरम्भ होती है और दक्षिण पूर्व दिशा की ओर मुड़ती हुई उसी ग्राम कनिहा में बिन्दु " ग " पर पहुंचती है।

ग-घः रेखा बिन्दु " ग " से पूर्व दिशा की ओर ग्राम कनिहा और पत्थरमुण्डा में से होकर बिन्दु " घ " पर पहुंचती है जो ग्राम पत्थरगुण्डा और तेलीसिंगा के ग्राम सड़क के पास है।

घ-ङ रेखा बिन्दु " घ " से प्राप्त होती है और दक्षिण-पूर्व दिशा की ओर मुड़ते हुए ग्राम पत्थरमुण्डा और तेलीसिंगा के ग्राम सड़क के साथ चलकर बिन्दु " ङ " पर पहुंचती है जो ग्राम पत्थरमुण्डा और तेलीसिंगा के सड़क के पास है।

ङ-चः रेखा बिन्दु " ङ " से प्रारम्भ होती है और पश्चिम की ओर चलकर ग्राम पत्थरमुण्डा में बिन्दु " च " पर पहुंचती है।

च-छः रेखा बिन्दु " च " से प्रारम्भ होकर आगे ग्राम पत्थरमुण्डा में होकर बिन्दु " छ " पर पहुंचती है जो कनिहा - जरड़ा ग्राम्य सड़क के पास है।

छ-जः रेखा बिन्दु " छ " से आगे दक्षिण-पश्चिम दिशा की ओर से होकर ग्राम कनिहा और जरड़ा की ग्राम्य सड़क के पास बिन्दु " ज " पर पहुंचती है।

ज-झः रेखा बिन्दु " ज " से दक्षिण-पूर्व दिशा की ओर ग्राम पत्थरमुण्डा और तेलीसिंगा की सम्मिलित सीमा के साथ होकर ग्राम तेलीसिंगा में बिन्दु " झ " पर पहुंचती है।

झ-ञः रेखा बिन्दु " झ " से उत्तर दिशा की ओर से होकर बिन्दु " ञ " तक पहुंचती है जो ग्राम पत्थरमुण्डा और तेलीसिंगा की सम्मिलित सीमा है।

ञ-टः रेखा बिन्दु " ञ " से पूर्व दिशा की ओर ग्राम तेलीसिंगा और पत्थरमुण्डा की सम्मिलित सीमा के साथ होकर ग्राम तेलीसिंगा, अम्बपाल और बिजीगोल की सम्मिलित सीमा के बिन्दु " ट " पर पहुंचती है।

ट-ठः रेखा बिन्दु " ट " से उत्तर की दिशा में ग्राम पत्थरमुण्डा और लोधाबान्ध की सम्मिलित सीमा से चलकर राष्ट्रीय राजमार्ग के पास ग्राम पत्थरमुण्डा में बिन्दु " ठ " पर पहुंचती है।

ठ-ड रेखा बिन्दु " ठ " पर पहुंचने के पश्चात उत्तर पश्चिम दिशा में मुड़ती है और राष्ट्रीय राजमार्ग के साथ आगे बढ़ती है तथा ग्राम कनिहा के बिन्दु " क " पर मिलती है।

ब्लाक-ख

क-खः रेखा बिन्दु " क " से आरंभ होती है जो ग्राम कंसमुण्डा में स्थित है, फिर दक्षिण-पश्चिम दिशा में चलकर तथा उसी ग्राम कंसमुण्डा में बिन्दु " ख " पर पहुंचती है।

ख-गः रेखा बिन्दु " ख " से आरंभ होती है जो ग्राम कंसमुण्डा में स्थित है और दक्षिण-पश्चिम दिशा से होकर ग्राम कंसमुण्डा और जयपुर की सम्मिलित सीमा के बिन्दु " ग " पर पहुंचती है।

ग-घः रेखा बिन्दु " ग " से आरंभ होती है और ग्राम कंसमुण्डा और जयपुर की सम्मिलित सीमा से होकर जाती है तथा पूर्व की ओर जाती है एवं बिन्दु " घ " पर पहुचंती है।

घ-कः रेखा बिन्दु " घ " से आरंभ होती है और उत्तर-पूर्व दिशा की ओर चलती है, बिन्दु " क " पर मिलती है।

ब्लाक-ग

क-खः रेखा बिन्दु " क " से आरंभ होती है, जो ग्राम अदैतप्रसाद और मालापासी की सम्मिलित सीमा पर स्थित है, से दक्षिण दिशा की ओर ग्राम जमनिया और गुन्डुरीनाली की सम्मिलित सीमा के साथ होकर बिन्दु " ख " पर पहुंचती है।

ख-गः रेखा बिन्दु " ख " से आरंभ होती है जो ग्राम जमनिया और गुन्डुरीनाली की सम्मिलित सीमा पर है तथा ग्राम जमनिया और गुन्डुरीनाली की सम्मिलित सीमा के साथ पूर्व की ओर बढ़ती है और " ग " बिन्दु पर मिलती है।

ग-घः रेखा " ग " बिन्दु से आरंभ होती है जो कि ग्राम जमनिया और गुडूरिनाली की सम्मिलित सीमा पर स्थित है और गुडूरिनाली के पूर्वी भाग से होते हुए जाती है और बिन्दु " घ " पर मिलती है।

घ-ङः रेखा " घ " बिन्दु से आरंभ होती है जो कि ग्राम हेलिया के पश्चिमी तरफ स्थित है और पूर्व की तरफ बढ़ती है तथा ग्राम हलिया और कमरई की सम्मिलित सीमा बिन्दु " ङ " पर मिलती है।

ङ -चः रेखा " ङ " बिन्दु से आरंभ होती है और उत्तर की ओर " च " बिन्दु तक बढ़ती है जो हलिया और कमरई ग्राम की सम्मिलित सीमा है।

च-छ - रेखा " च " बिन्दु से आरंभ होती है जो कि ग्राम कमरई और हलिया की सम्मिलित सीमा है। ग्राम कमरई के उत्तरी भाग से होते हुए पश्चिम दिशा की ओर मुड़ती है बिन्दु " छ " तक जाती है जो कि ग्राम कमरई में भी स्थित है।

छ-ज - रेखा " छ " बिन्दु से आरंभ होती है तथा दक्षिण पूर्व दिशा की ओर मुड़ती है और " ज " बिन्दु तक जाती है जो कि नदी के समीप ग्राम कमरई में स्थित है।

ज-झ - रेखा " ज " बिन्दु से आरंभ होती है " झ " बिन्दु तक पूर्वी दिशा की ओर जाती है जो कि ग्राम कमरई तथा जुलाबन्धा की सम्मिलित ग्राम सीमा में स्थित है।

झ-ञ - रेखा " झ " बिन्दु के पश्चात तीन ग्राम जो कि कमरई, जुलाबंधा और शन्द्राबिरना है के साथ उत्तरी दिशा की ओर बिन्दु " ञ " तक जाती है।

ट-ठः रेखा बिन्दु " ट " से प्रारंभ होती है और दक्षिण-पश्चिम दिशा की ओर ग्राम तेलीसिंगा में से गुजरते हुए बिन्दु " ठ " पर पहुंचती है।

ठ-क रेखा बिन्दु " ठ " से आगे उत्तर पश्चिम की ओर बढ़ती है और ग्राम तेलीसिंगा, जरड़ा और जमनिया में से गुजरते हुए प्रारम्भिक बिन्दु " क " पर मिलती है जो ग्राम मालापासी, आदीप्रसाद और जमनिया की सम्मिलित सीमा है।

[फा. सं. आर-43015/11/2005-पी.आर.आई.डब्ल्यू.]

बी. के. पण्डा, निदेशक

Ministry of Coal

New Delhi, the 20th June, 2006

S. O. 2406 Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act,1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Govt. hereby gives notice of its intention to prospect for coal therein;

The plan bearing No. MCL/SAMB/CGM(CP&P/ 2006/ 01 dated 08.02.2006 of the area covered by this notification can be inspected at the office of the Chief General Manager (CP&P), Mahanadi Coalfields Limited, Jagriti Vihar, Burla, Sambalpur - 768020 (Orissa), or at the office of the Collector and District Magistrate, Angul, Orissa or at the office of the Coal Controller, 1, Council House Street, Kolkata.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the officer-in-charge or Head of the Department (Revenue/Estate), Mahanadi Coalfields Limited, Jagriti Vihar , Burla, Sambalpur - 768018 (Orissa), within 90 days from the date of the publication of this notification in the official Gazette.

SCHEDULE

Kaniha OCP Expansion
Talcher Coalfield, District Angul (Orissa)

All rights

(Plan bearing NO.MCL/SAMB/CGM(CP&P)/ 2006/01 dated 08/02/2006)

BLOCK	SL. No.	Village	Police station & No	Tahsil / Sub Div.	District/ State	Area in acres	Rem arks
A	1	Kaniha	Kaniha - 60	Talcher	Angul / Orissa	167.96	Part
	2	Patharmunda	Kaniha-91	Talcher	Angul/Orissa	394.41	Part
		Telisinga	Kaniha-90	Talcher	Angul/Orissa	25.84	Part
	Sub Total					**588.21**	
B	3	Kansamunda	Kaniha-63	Talcher	Angul/Orissa	75.48	Part
	Sub Total					**75.48**	
C	4	Gundurinali	Kaniha-88	Talcher	Angul/Orissa	64.42	Part
	5	Jarada	Kaniha-89	Talcher	Angul/Orissa	281.83	Part
	6	Telisinga	Kaniha-90	Talcher	Angul/Orissa	235.01	Part
	7	Matharagadi R.F.	Kaniha	Talcher	Angul/Orissa	115.96	Full
	8	Jamania	Kaniha-66	Talcher	Angul/Orissa	87.99	Part
	9	Chhelia	Kaniha-108	Talocher	Angul/Orissa	584.10	Part
	10	Kamarei	Kaniha-106	Talcher	Angul/Orissa	531.94	Part
	11	Dandasinga	Kaniha-102	Talcher	Angul/Orissa	230.00	Part
Sub Total						**2131.25**	
Grand Total						**2794.94**	
			2794.94 acres (approx.) or 1131.55 hectares (approx.)				

Boundary Description

BLOCK - A.

A-B-:- The line starts from "A", proceeds towards west direction in between village Kaniha upto point 'B' which is common boundary of village Balarampur and Kaniha.

B-C:- The line starts from 'B' and turns towards south east direction and reach upto point 'C' in village Kaniha.

C-D : The line starts from 'C' moves towards east direction through village kaniha and Patharmunda and meets at point 'D' which is near Patharmunda and Telisingga village road.

D-E : The line starts from point 'D' and turns towards the direction of south east along the village road of Patharmunda and Telisingha upto point 'E' which is also situated near village road Patharmunda and Telisingha.

E-F:- The line starts from point 'E' and proceeds towards the west direction and reaches upto point 'F' in Patharmunda village.

F-G : The line starts from point 'F', turn in village Pathatmunda and reaches upto point "G' which is near Kaniha Jarada village road.

G-H: From point 'G', the line moves towards the direction of south west along Kaniha and Jarada village road and reaches upto point 'H'.

H-I : From point 'H', the line turns towards south east directions with common boundary of Patharmunda and Telisingha village reaches upto point 'I' in village Telisingha.

I-J : From point 'I' line turns towards north direction and proceeds upto point 'J' which is common boundary of village Patharmunda and Telisingha.

J-K : The line moves from point 'J' and proceeds towards east directions through common boundary of village Telisingha and Patharmunda and reaches upto point 'K' which is common boundary of village Telisingha Ambapal and Bijigol.

K-L: From point 'K' the line starts towards north direction and passes through common boundary of village Patharmunda and Lodhabandha and reaches upto point 'L' which is situated near NH in Patharmunda village.

L-A : After reaching at point 'L', again the line turns towards north west directions and proceeds along and near the NH road and meets at point 'A' in village kaniha.

BLOCK - B

A-B : The line starts from point 'A' inside village Kansamunda, then it proceeds at the direction of south west and join to 'B' at same village at Kansamunda.

B-C: The line starts from 'B' inside village Kansamunda, then it proceeds at the direction of south west and meets at point 'C' which is situated at common boundary of village Kansamunda and Jaipur.

C-D: The line starts from "C" and passes through common boundary of village Kansamunda and Jaipur and proceeds towards east and joined at point 'D'.

D-A: The line starts from point 'D' and also proceeds towards north east direction and meets at point "A".

BLOCK - C

A-B: The line starts from point , "A" which is on common vi age boundary of Adaitaprasad, and Malapasi and proceeds towards south direction pas ses along the common village boundary of Jamania and Gundurinali and meets at point 'B'.

B-C: The line starts from point "B" which is on common boundary of village Jamania and Gundurinali and proceeds towards east along the common boundary of village Jamania and Gundurinali and meets at point 'C'.

C-D: The line starts from point "C" which is situated on common boundary of village Jamania and Gundurinali and proceeds through eastem part of village Gundirinali and meet at point"D".

D-E: The line starts from point "D" which is situated at west side of village Chhelia and proceeds towards east to meet at point "E" at common boundary of village Chhelia and kamarei.

E-F: The line starts from point "E" and proceeds towards north upto point "F" and same common village boundary of Chhelia and Kamarie.

F-G: The line starts from point "F" which is common boundary of village Kamarei and Chhelia and moves towards west direction through north part of village Kamarei and upto point"G" which also exists in village Kamarei.

G-H: From point "G", the line turn towards south east direction and proceeds upto "H" which is village Kamarei near to river.

H-I: The line starts from point "H" and proceeds towards east direction upto point "I" which is situated in common village boundary of Kamarei and Julabandha village.

I-J: After point "I", the line starts towards north direction along three village boundary that is kamarei, Julabandha and Gandaberana upto point "J".

J-K: After point "J" the line proceeds towards north direction through westem part of village Dandasingha and meet at common boundary of village Telisingha, Ambapal and Bijigol upto point "K".

K-L: The line starts from "K" and turns towards south west direction and passes through village Telisingha up to point "L".

L-A: From point "L" the line proceeds towards north west direction and passes through village Telisingha Jarada and Jamania upto point "A" which is common boundary of village Malapasi, Adaitaprasad and Jamania.

[No. 43015/11/2005-PRIW]
B. K. PANDA, Director

नई दिल्ली, 20 जून, 2006

का. आ. 2407.— केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्य किए जाने की संभावना है।

केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन एवं विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमे इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र का, जिसका रेखांक सं. ई.सी.एल./ब्रहम /मौजा/1:2 तारीख 07.01.2005 का उप आयुक्त जिला दुमका (झारखण्ड) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता 700001 के कार्यालय में या निदेशक तकनीकी (प्रचालन), ईस्टर्न कोलफील्ड्स लि. संकतोड़िया, डाकघर - दिसेरगढ़ , जिला - बर्द्धवान (प. बगांल) के कार्यालय में किया जा सकता है ।

इस अधिसूचना के अंतर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों का उस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर निदेशक (तकनीकी) ईस्टर्न कोलफील्ड्स लि. संकतोड़िया, डाकघर-दिसेरगढ़, जिला-बर्द्धवान (प.बंगाल) के कार्यालय में किया जा सकता है।

अनुसूची

ब्रहमनी कोयला प्रोजेक्ट(राजमहल क्षेत्र)

जिला : दुमका, झारखण्ड पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए

क्रम सं0	मौजा/ग्राम का नाम	थाना सं0	जिला	क्षेत्र हेक्टेयर (अनुमानतः)	टिप्पणियां
1.	डोमनपुर	17	दुमका	304.28	पूरा
2.	बुटबेरिया	14	दुमका	54.61	पूरा
3.	असनबनी	11	दुमका	71.16	पूरा
4.	घासिपुर	13	दुमका	143.05	पूरा
5.	कनायडीह	15	दुमका	224.41	पूरा
6.	चिचरो	12	दुमका	215.65	पूरा

7.	बराभलकी	20	दुमका	376.85	पूरा
8.	भुकटानडीह	1	दुमका	377.61	पूरा
9.	गनधरबपुर	13	दुमका	355.15	पूरा
10.	सरायपानी	15	दुमका	289.14	पूरा
11.	पंचबाहीनी	14	दुमका	257.24	पूरा
12.	पटेसी	12	दुमका	188.76	भाग
			कुल क्षेत्र -	2857.91	

कुल योग -2857.91 हैक्टेयर (लगभग)

सीमा विवरण

क1 - क2 रेखा क1 बिन्दु से आरम्भ होकर मौजा- जामबाद संख्या 24, मौजा- भुकटानडीह संख्या 1 और प्रतापपुर संख्या 2 की सम्मिलित सीमा और प्लाट संख्या 1052 मौजा- भुकटानडीह संख्या 1 के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-2 बिन्दु पर मिलती है ।

क2 - क3 रेखा क2 बिन्दु से आरम्भ होकर मौजा- खारुदाम संख्या 23 और मौजा- भुकटानडीह संख्या 1 की सम्मिलित सीमा से होकर और प्लाट संख्या 109 मौजा- भुकटानडीह संख्या 1 के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-3 बिन्दु पर मिलती है ।

क3 - क4 रेखा क3 बिन्दु से आरम्भ होकर मौजा- आमगचि संख्या 55, मौजा- भुकटानडीह संख्या 1 के साझा सीमा से होकर और प्लाट संख्या 1 मौजा- भुकटानडीह संख्या 1 के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-4 बिन्दु पर मिलती है ।

क4 - क5 रेखा क4 बिन्दु से आरम्भ होकर मौजा- पखोरिया संख्या 54, मौजा- भुकटानडीह संख्या 1 की सम्मिलित सीमा से होकर और प्लाट संख्या 567 मौजा- भुकटानडीह संख्या 1 के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-5 बिन्दु पर मिलती है ।

क5 - क6 रेखा क5 बिन्दु से आरम्भ होती है मौजा- बिलाइकन्दर संख्या 16, मौजा- भुकटानडीह संख्या 1 और डोमनपुर संख्या 17 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-6 बिन्दु पर मिलती है ।

क6 - क7 रेखा क6 बिन्दु से आरम्भ होकर मौजा- बिलाइकन्दर संख्या 16, मौजा- बराभलकी संख्या 20 और डोमनपुर संख्या 17 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-7 बिन्दु पर मिलती है।

क7 - क8 रेखा क7 बिन्दु से आरम्भ होकर मौजा- बिलाइकन्दर संख्या 16, मौजा- बराभलकी संख्या 20 और कनायडीह संख्या 15 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-8 बिन्दु पर मिलती है।

क8 - क9 रेखा क8 बिन्दु से आरम्भ होकर मौजा- बिलाइकन्दर संख्या 16, मौजा- पखोरिया संख्या 54 और कनायडीह संख्या 15 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-9 बिन्दु पर मिलती है ।

क9 - क10 रेखा क9 बिन्दु से आरम्भ होकर मौजा- पखोरिया संख्या 54, कनायडीह संख्या 15 और मौजा से मोहनपुर संख्या 50 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-10 बिन्दु पर मिलती है ।

क10 - क11 रेखा क10 बिन्दु से आरम्भ होकर मौजा- धामनाही संख्या 51, कनायडीह संख्या 15 और मौजा- मोहनपुर संख्या 50 की तीनों की साझा सीमा से होकर जाती है और प्लान पर रेखाचित्रित रूप में क-11 बिन्दु पर मिलती है ।

क11 - क12 रेखा क11 बिन्दु से आरम्भ होकर मौजा- धामनाही संख्या 51 कनायडीह संख्या 15 और मौजा- बुटबेरिया संख्या 14 की तीनों की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-12 बिन्दु पर मिलती है ।

क12 - क13 रेखा क12 बिन्दु से आरम्भ होकर मौजा- धामनाही संख्या 51 मौजा- बुटबेरिया संख्या 14 और निझोर संख्या 39 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-13 बिन्दु पर मिलती है ।

क13 - क14 रेखा क13 बिन्दु से आरम्भ होकर निझोर संख्या 39, मौजा- बुटबेरिया संख्या 14 और मौजा- असनबनी संख्या 11 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-14 बिन्दु पर मिलती है ।

क14 - क15 रेखा क14 बिन्दु से आरम्भ होकर निझोर संख्या 39, मौजा- छोटाभलकी संख्या 10 और मौजा- असनबनी संख्या 11 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-15 बिन्दु पर मिलती है ।

क15 - क16 रेखा क15 बिन्दु से आरम्भ होकर जोराम संख्या 09, मौजा- छोटाभलकी संख्या 10 और मौजा- असनबनी संख्या 11 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-16 बिन्दु पर मिलती है ।

क16 - क17 रेखा क16 बिन्दु से आरम्भ होकर जोराम संख्या 09, मौजा- चिचरो संख्या 12 और मौजा- असनबनी संख्या 11 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-17 बिन्दु पर मिलती है ।

क17 - क18 रेखा क17 बिन्दु से आरम्भ होकर जोराम संख्या 09, मौजा- चिचरो संख्या 12 और मौजा- बरामसीया संख्या 07 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-18 बिन्दु पर मिलती है ।

क18 - क19 रेखा क18 बिन्दु से आरम्भ होकर हीरोडीह संख्या 06, मौजा- चिचरो संख्या 12 और मौजा- बरामसीया संख्या 07 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-19 बिन्दु पर मिलती है ।

क19 - क20 रेखा क19 बिन्दु से आरम्भ होकर हीरोडीह संख्या 06, मौजा- चिचरो संख्या 12 और मौजा- बेलबुनी संख्या 05 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-20 बिन्दु पर मिलती है ।

क20 - क21 रेखा क20 बिन्दु से आरम्भ होकर सालदाहा संख्या 21, मौजा- चिचरो संख्या 12 और मौजा- बेलबुनी संख्या 05 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-21 बिन्दु पर मिलती है ।

क21 - क22 रेखा क21 बिन्दु से आरम्भ होकर सालदाहा संख्या 21, मौजा- चिचरो संख्या 12 और मौजा- बराभलकी संख्या 20 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-22 बिन्दु पर मिलती है ।

क22 - क23 रेखा क22 बिन्दु से आरम्भ होकर सालदाहा संख्या 21, मौजा- पेनालदाहा संख्या 19 और मौजा- बराभलकी संख्या 20 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-23 बिन्दु पर मिलती है ।

क23 - क24 रेखा क23 बिन्दु से आरम्भ होकर डोमनपुर संख्या 17, मौजा- पेनालदाहा संख्या 19 और मौजा- बराभलकी संख्या 20 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-24 बिन्दु पर मिलती है ।

क24 - क25 रेखा क24 बिन्दु से आरम्भ होकर डोमनपुर संख्या 17, मौजा- पेनालदाहा संख्या 19 और मौजा- सरसाबाद संख्या 18 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-25 बिन्दु पर मिलती है ।

क25 - क26 रेखा क25 बिन्दु से आरम्भ होकर डोमनपुर संख्या 17, मौजा- पनचबाहीनी संख्या 14 और मौजा- सरसाबाद संख्या 18 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-26 बिन्दु पर मिलती है ।

क26 - क27 रेखा क26 बिन्दु से आरम्भ होकर सराइपानी संख्या 15, मौजा- पनचबाहीनी संख्या 14 और मौजा- सरसाबाद संख्या 18 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-27 बिन्दु पर मिलती है ।

क27 - क28 रेखा क27 बिन्दु से आरम्भ होकर सराइपानी संख्या 15, मौजा- झीकरा संख्या 22 और मौजा- सरसाबाद संख्या 18 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-28 बिन्दु पर मिलती है ।

क28 - क29 रेखा क28 बिन्दु से आरम्भ होकर सराइपानी संख्या 15, मौजा- झीकरा संख्या 22 और मौजा- बरधामिया पहाडी संख्या 28 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-29 बिन्दु पर मिलती है ।

क29 - क30 रेखा क29 बिन्दु से आरम्भ होकर सराइपानी संख्या 15, मौजा- अमरपानी संख्या 16 और मौजा- बरधामिया पहाडी संख्या 28 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-30 बिन्दु पर मिलती है ।

क30 - क31 रेखा क30 बिन्दु से आरम्भ होकर सराइपानी संख्या 15, मौजा- अमरपानी संख्या 16 और मौजा- हल्दी पहाडी संख्या 17 और मौजा- गनधरबपुर संख्या 13 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-31 बिन्दु पर मिलती है ।

क31 - क32 रेखा क31 बिन्दु से आरम्भ होकर हल्दी पहाडी संख्या 17 और मौजा- गनधरबपुर संख्या 13 और मौजा- बाबुपाडा संख्या 19 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-32 बिन्दु पर मिलती है ।

क32 - क33 रेखा क32 बिन्दु से आरम्भ होकर दुधाजोल संख्या 11 और मौजा- गनधरबपुर संख्या 13 और मौजा- बाबुपाडा संख्या 19 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-33 बिन्दु पर मिलती है ।

क33 - क34 रेखा क33 बिन्दु से आरम्भ होकर दुधाजोल संख्या 11 और मौजा- गनधरबपुर संख्या 13 और मौजा-पटसीमल संख्या 12 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-34 बिन्दु पर मिलती है ।

क34 - क35 रेखा क34 बिन्दु से आरम्भ होकर दुधाजोल संख्या 11 और मौजा-पटसीमल संख्या 12 की सीमा से होकर प्लाट संख्या 633 मौजा-पटसीमल संख्या 12 के प्लान पर रेखाचित्रित रूप में क-35 बिन्दु पर मिलती है ।

क35 - क36 रेखा क35 बिन्दु प्लाट संख्या 633 मौजा-पटसीमल संख्या 12 से आरम्भ होकर प्लाट संख्या 632, 624, 625, 586, 582, 581, 580, 579, 576, 578, 545, 532 से होकर प्लाट संख्या 643 के मौजा-पटसीमल संख्या 12 के प्लान पर रेखाचित्रित रूप में क-36 बिन्दु पर मिलती है ।

क36 - क37 रेखा क36 बिन्दु प्लाट संख्या 643 मौजा-पटसीमल संख्या 12 से आरम्भ होकर मौजा-भुकटानडीह संख्या 01 और मौजा- प्रतापपुर संख्या 2 तथा मौजा-पटसीमल संख्या 12 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-37 बिन्दु पर मिलती है।

क37 - क1 रेखा क37 बिन्दु मौजा-पटसीमल संख्या 12 और मौजा-भुकटानडीह संख्या 01 तथा मौजा- प्रतापपुर संख्या 2 की साझा सीमा के साथ जाती है और प्लान पर रेखाचित्रित रूप में क-1 बिन्दु पर मिलती है ।

[फा. सं. आर-43015/15/2005-पी.आर.आई.डब्ल्यू.]

बी. के. पण्डा, निदेशक

New Delhi, the 20th June, 2006

S. O. 2407.—Where as it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the schedule here to annexed.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan (Drawing No. ECL/Bramh/Mouza/05/1 and 2 Dated 07.01.05) of the area covered by this notification may be inspected in the office of the Deputy Commissioner, District Dumka (Jharkhand) or in the office of the Coal Controller, 1, Council House Street Kolkata or in the office of the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, P.O. Dishergarh, District-Burdwan (West Bengal).

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act, to the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, P.O. Dishergarh, District- Burdwan (West Bengal), within ninety days from the date of publication of this notification in the official Gazette.

SCHEDULE

Brahmoni Coal Project (Rajmahal Coalfields)
District Dumka, Jharkhand

(Showing lands notified for prospecting)

Sl. No	Mouza Village	Name of Thana	Thana No.	District	Area (hectares)	Remarks
1	Domanpur	Kathikund	17	Dumka	304.28	Full
2	Butberia	Kathikund	14	Dumka	54.61	Full
3	Asanbani	Kathikund	11	Dumka	71.16	Full
4	Ghasipur	Kathikund	13	Dumka	143.05	Full
5	Kanaidih	Kathikund	15	Dumka	224.41	Full
6	Chichro	Kathikund	12	Dumka	215.65	Full
7	BaraBhalki	Kathikund	20	Dumka	376.85	Full
8	Bhuktandih	Shikaripara	1	Dumka	377.61	Full
9	Gandharbapur	Shikaripara	13	Dumka	355.15	Full

10	Saraipani	Shikaripara	15	Dumka	289.14	Full
11	Panchbahini	Shikaripara	14	Dumka	257.24	Full
12	Patsimal	Shikaripara	12	Dumka	188.76	**Part**
					Grand total =	**2857.91 hectares**

Boundary Description

A1-A2 Line starts from A1 at common boundary line of Mouza Jambad No.24, Bhuktandih No.1 and Pratappur No.2 passes through plot no.1052 of Mouza Bhuktandih No.1 and meets at point A2 as delienated on plan.

A2- A3 Line starts from A2 and passes through joint boundary line of Mouza-Kharudam No.23 and Bhuktandih No.1 and meets at point A3 in plot no. 109 of Bhuktandih No.1 as delineated on plan.

A3-A4 Line starts from A3 and passes through common boundary line of Mouza-Amgachi No.55, Bhuktandih No.1 and passes through plot no.1 of Bhuktandih No.1 and meets at pint A4 as delineated on plan.

A4-A5 Line starts from A4 passes along with common boundary line of Mouza-Pokhoria No.54 and Bhuktandih No.1 passes through plot no.567 of Bhuktandih No.1 and meets at point A5 as delineated on plan.

A5-A6 Line starts from A5 and passes along with the boundary line of Mouza – Bilaikandar No.16, Bhuktandih No.1 and Domanpur No.17 and meets at point A6 as delineated on the plan.

A6- A7 Line starts from A6 and passes along with the boundary line of Mouza – Bilaikandar No.16, Barabhalki No.20 and Domanpur No.17 and meets at point A7 as delineated on the plan.

A7- A8 Line starts from A7 and passes along with the boundary line of Mouza – Bilaikandar No.16, Barabhalki No.20 and Kanaidih No.15 and meets at point A8 as delineated on the plan.

A8-A9 Line starts from A8 and passes along with the boundary line of Mouza – Bilaikandar No.16, Pokhoria No.54 and Kanaidih No.15 and meets at point A9 as delineated on the plan.

A9- A10 Line starts from A9 and passes along with the boundary line of Mouza – Mohanpur No.50, Pokhoria No.54 and Kanaidih No.15 and meets at point A10 as delineated on the plan.

A10-A11 Line starts from A10 and passes along with the boundary line of Mouza – Dhamnahi No.51, Mohanpur No.50and Kanaidih No.15 and meets at point A11 as delineated on the plan.

A11- A12 Line starts from A11 and passes along with the boundary line of Mouza – Dhamnahi No.51,Kanaidih No.15 and Butbaria No.14 and meets at point A12 as delineated on the plan.

A12- A13 Line starts from A12 and passes along with the boundary line of Mouza – Dhamnahi No.51, Butbaria No.14 and Nijhor No.39 and meets at point A13 as delineated on the plan.

A13- A14 Line starts from A13 and passes along with the boundary line of Mouza – Nijhor No.39, Butbaria No.14 and Asanbani No.11 and meets at point A14 as delineated on the plan.

A14 –A15 Line starts from A14 and passes along with the boundary line of Mouza – Nijhor No.39, Asanbani No.11 and ChotaBhalki No.10 and meets at point A15 as delineated on the plan.

A15- A16 Line starts from A16 and passes along with the boundary line of Mouza – Asanbani No.11 and Chota Bhalki No.10 and Joram No.09 and meets at point A16 as delineated on the plan.

A16- A17 Line starts from A16 and passes along with the boundary line of Mouza – Asanbani No.11 and Joram No.09 and Chichro No.12 and meets at point A17 as delineated on the plan.

A17- A18 Line starts from A17 and passes along with the boundary line of Mouza – Joram No.09 and Chichro No.12 and Baramasia No.7 and meets at point A18 as delineated on the plan.

A18- A19 Line starts from A18 and passes along with the boundary line of Mouza – Chichro No.12 and Baramasia No.7 andHirodih No.6 and meets at point A19 as delineated on the plan.

A19- A20 Line starts from A19 and passes along with the boundary line of Mouza – Chichro No.12 and Hirodih No.6 and Belbuni No.5 and meets at point A20 as delineated on the plan.

A20- A21 Line starts from A20 and passes along with the boundary line of Mouza – Chichro No.12 and Belbuni No.5 and Saldaha No.21 and meets at point A21 as delineated on the plan.

A21- A22 Line starts from A21 and passes along with the boundary line of Mouza – Chichro No.12 and Saldaha No.21and BaraBhalki No.20 and meets at point A22 as delineated on the plan.

A22- A23 Line starts from A22 and passes along with the boundary line of Mouza – Saldaha No.21and BaraBhalki No.20 and Penaldaha No.19 and meets at point A23 as delineated on the plan.

A23- A24 Line starts from A23 and passes along with the boundary line of Mouza – BaraBhalki No.20 and Penaldaha No.19 andDomanpur No.17 and meets at point A24 as delineated on the plan.

A24- A25 Line starts from A24 and passes along with the boundary line of Mouza – Penaldaha No.19 and Domanpur No.17 and Sarsabad No.18 and meets at point A25 as delineated on the plan.

A25- A26 Line starts from A25 and passes along with the boundary line of Mouza – Domanpur No.17 and Sarsabad No.18 and Panchabahini No.14 and meets at point A26 as delineated on the plan.

A26- A27 Line starts from A26 and passes along with the boundary line of Mouza – Sarsabad No.18 and Panchabahini No.14 and Saraipani No.15 and meets at point A27 as delineated on the plan.

A27- A28 Line starts from A27 and passes along with the boundary line of Mouza – Sarsabad No.18 and Saraipani No.15 andJhikra No.22 and meets at point A28 as delineated on the plan.

A28- A29 Line starts from A28 and passes along with the boundary line of Mouza – Saraipani No.15 and Jhikra No.22 and Bardhamia Pahari No.28 and meets at point A29 as delineated on the plan.

A29- A30 Line starts from A29 and passes along with the boundary line of Mouza – Saraipani No.15 and Bardhamia Pahari No.28 and Amarpani No.16, and meets at point A30 as delineated on the plan.

A30- A31 Line starts from A30 and passes along with the boundary line of Mouza – Saraipani No.15 and Amarpani No.16 andHaldipahari No.17 and Gandharbapur No.13 and meets at point A31 as delineated on the plan.

A31- A32 Line starts from A31 and passes along with the boundary line of Mouza – Haldipahari No.17 and Gandharbapur No.13 and Babupara No. 19 and meets at point A32 as delineated on the plan.

A32- A33 Line starts from A32 and passes along with the boundary line of Mouza – Gandharbapur No.13 and Babupara No. 19 and Dudhajol No.11 and meets at point A33 as delineated on the plan.

A33-A34 Line starts from A33 and passes along with the boundary line of Mouza – Gandharbapur No.13 and Dudhajol No.11 and Patsimal No.12 and meets at point A34 as delineated on the plan.

A34-A35 Line starts from A34 at the boundary line and passes through boundary line of Mouza – Dudhajol No.11 and Patsimal No.12 and meets at point A35 in plot no. 633 of Mouza Patsimal No.12 as delineated on the plan.

A35-A36 Line starts from A35 at plot no. 633 of Mouza Patsimal No.12 and passes through plot no. 632,624,625,586,582,581,580,579,576,578,545,532 and meets at point A36 in plot no.643 of Mouza Patsimal No.12 as delineated on the plan.

A36-A37 Line starts from A36 of plot no.643 of Mouza Patsimal No.12 and passes along with the boundary line of Mouza – Patsimal No.12 and Bhuktandih No.1 and Pratappur No.2 meets at point A37 as delineated on the plan.

A37-A1 Line starts from A37 and passes along with the boundary line of Mouza – Patsimal No.12 and Bhuktandih No.1 and Pratappur No.2 meets at point A1 as delineated on the plan.

[No. 43015/15/2005-PRIW]
B. K. PANDA, Director

श्रम और रोजगार मंत्रालय

नई दिल्ली, 30 मई, 2006

का.आ. 2408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी-190/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2006 को प्राप्त हुआ था।

[सं. एल- 12012/223/1999-आई आर (बी-I)]
अजय कुमार, डैस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th May, 2006

S.O. 2408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID-190/1999) of the Central Government Industrial Tribunal/ Labour Court, No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 30-5-2006.

[No. L-12012/223/1999-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COUT-II, NEW DELHI

Presiding Officer: R.N. RAI **I.D. NO. 190/1999**

In the matter of :—

Shri Vijay Singh,
C/o Shri Ram Nath,
Road Baraut,
Distt : Bagpat.

Versus

The Dy. General Manager,
State Bank of India,
Region -I, Zonal Office :
Garh Road, Meerut,
U.P. - 250001.

AWARD

The Ministry of Labour by its letter No.L-12012/ 223/99-IR (B-I) Central Government dt. 3-8-1999 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether the action of the management of State Bank of India in terminating the services of Shri Vijay Singh, Ex. Temporary Messenger/Water boy w.e.f. 11-10-1996 is just, fair and legal? If not, what relief he is entitled to and from what date.?"

The workman applicant has filed claim statement. In the claim statement it is stated that the workman was appointed in the service of the Bank on 18-7-1994, as Waterboy-cum-Messanger at Baraut Branch.

That the service conditions of the workman staff in the bank are governed by the Sastry Award as modified by Desai Award and the subsequent bipartite settlements, which have statutory force. The workman have been classified as "Permanent Employee", "Probationer". "Part Time Employee" and "Temporary Employee" in terms of para 23-15 of the Desai Award. A photocopy of the relevant extract of the award is enclosed and marked as Annexure-I.

That the procedure of the termination of temporary employees is mentioned in Chapter 26 of the reference book on staff matters. A photocopy of the relevant chapter is enclosed and marked as Annexure-II. The Dy. Managing Director (Personnel & Services) in his letter No. IR/21586 addressed to the Chief General Manager, New Delhi Circle stating the bank's guidelines/rules regarding temporary employees has been mentioned, "that badli/daily wage appointments cannot be treated on a different footing from other temporary appointments and even those who have completed 240 days service in a period of 12 calendar months as badli workman would be eligible for the benefit given under section 25 F of the Act." A photocopy of the letter is enclosed and marked as Annexure-III.

That in terms of para 516 of the Sastry Award the bank is required to maintain the service book for every employee, whether he is a temporary employee, a probationer or a permanent employee. The bank has not maintained any service book in my case. But the bank issued to me an Identity Certificate dated 1-8-1995; the certificate signed by the Branch Manager, Baraut Branch reads as under :

"TO WHOM IT MAY CONCERN"

Certified that Shri Vijay Singh S/o Shri Kanchid Singh R/o Nehru Road, Baraut presently working at S.B.I., Baraut on temporary messenger/waterboy on daily wages.

Sd/-
Branch Manager, Baraut

A photocopy of the certificate is enclosed and marked as Annexure-IV. The Annexures 591, 5(2) and 5(3) would prove that the workman had worked for 712 days as per the attendance/chart prepared by the Branch, annexed as Annexure 7 to 25. Photocopies of the conveyance bills etc. paid by the Branch are annexed as Annexure 26 to 108. Photocopies of the Peon Book,

mentioning the workman's name as messenger carrying dak etc. are enclosed as Annexure 109 to 119.

That in terms of para 495 of the Sastry Award the Bank is required to give an appointment letter specifying the kind of appointment and ordinary period of probation should not exceed six months. Ordinarily the probationers, after expiry of six months period, are deemed to be confirmed in the service. The bank management in violation of the statutory provision did not issue any appointment letter to the plaintiff. The type of appointment given to the plaintiff can be judged from TA bills, other bills, peon book etc.

That the workman worked up to 10-10-1996 continuously at the same Branch (Baraut) and became a protected workman under the provisions of the ID Act, 1947.

That on 10-10-1996 the service of the workman was terminated without any notice or retrenchment compensation as provided in Section 25 of the ID Act, 1947 and para 522 (4) of the Sastry Award. The provisons of retrenchment and reemployment as provided in Section 25 of the ID Act, 1947 were also violated by the bank.

That the termination of the workman was unjustified, unfair and illegal. While terminating the services of the workman the bank did not comply with the mandatory and statutory provisions of Section 25 of the ID Act, 1947 and para 522 (4) of the Sastry Award, thereby rendering its action as illegal.

That the union took up the cause of the workman *vide* their letter dated 25-4-1997, annexed as Annexure-VI requesting the bank to reinstate the workman in the service of the Bank, as the action of termination of service of workman by the management was illegal and colourful exercise of the administrative power.

The management has filed written statement. In the written statement it has been stated that the workman was never appointed on any substantive post in accordance with the rules and procedure of recruitment in State Bank of India. He only worked as a casual workman without any obligation on the employer to continue to offer him casual employment. Shri Vijay Singh is, therefore, not a "workman" as denied in Section 2(s) of the ID Act, 1947 and the present dispute is not an industrial dispute.

That the contents of para 1 of the statement of claim of the workman are absolutely false and baseless, hence denied. The referred workman was never appointed on any post, not even a temporary post in accordance with the rules, procedures and guidelines of recruitment of all categories of employees. The referred workman was only engaged for two to three hours a day during 18-07-1994 to 10-10-1996 as and when required. His casual engagement was in fact against the Bank's directions for not engaging casual labour for routine messengerial chores and for similar menial jobs like fetching water etc.

That the contents of para 2 of the statement of claim of the workman are also not admitted in the manner, they are stated. The averments in this para are totally irrelevant in so far as a casual workman like the referred workman is concerned.

That the contents of para 3 of the statement of claim of the workman are again irrelevant, hence denied. Assuming through completely denying that the referred workman can be treated as a "temporary workman", it is submitted that the settled principle of law is that the wording of para 522.4 of the Sastry Award being different from the wording of Section 25F of the ID Act, 1947, the employer is only liable to pay damages for 14 wages including all allowances only.

The contents of this para referring to Dy. Managing Director (Personnel and Services)'s letter No. IR/21587, are also misconceived and irrelevant. The casual engagement of the referred workman cannot be equated with badli/daily wage appointment. The number of working days put in by the referred workman are not relevant as the provisions of Section 25 F are not attracted.

That the contents of para 4 of the statement of claim of the workman are illegal and misconceived, hence denied. The employer/management never accorded him the status of even a temporary employee. Therefore, there never arose any question of maintaining his service book.

It is reiterated that number of working days, issuance of identity card, certificate etc. does not accord the status of an employee employed on substantive basis on any post. The referred workman cannot be permitted to seek back door entry into the regular or even temporary employment of the Bank. It is further repeated that the maximum relief to even a terminated temporary workman can be only 14 days wages.

That the contents of para 5 of the statement of claim of the workman, in view of the above submissions, are illegal and misconceived, hence denied. On the contrary non-issuance of an appointment letter itself proves that the referred workman was not appointed as such on any post, in any recognised category.

That the contents of para 6 of the statement of claim of the workman in view of the above submissions are again illegal and misconceived, hence denied.

That the contents of para 7 of the statement of claim of the workman are absolutely illegal and misconceived as well as baseless, hence denied. Even

the assumption in the reference order, that he was a temporary workman which is not admitted by the management, does not entitle him to the benefit of Section 25F and he cannot be reinstated.

That the contents of para 8 of the statement of claim of the workman are repetitive, illegal and misconceived hence denied.

That the contents of para 9 of the statement of claim of the workman are illegal and mosconceived. The Union has taken up a wrong cause. The casual employment, that too contrary to rules, should not be permitted to further swell the over employment in the Bank and the union should not expouse such retrograde and unproductive causes.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he has filed photocopies of chart of his duty from B-155 to B-198. These documents are photocopy. The workman can only obtain photocopy from the relevant register. These photocopies have not been denied by the management. So these documents are admissible in evidence and these documents establish that the workman has worked for 712 days in between 18-07-1994 to 10-10-1996. So he has worked for more than 240 days in these two years. He has annexed photocopies. MW1 has admitted that these contingent bills which relate to his tenure have been sanctioned by him. The photocopy of Peon Book have been filed and these photocopies have not been denied. There is no endorsement of denial on these photocopies. The originals are lying with the management. The management has not produced the relevant documents of those dates so these photocopies prove that the workman was a full time worker and he discharged all the duties of a peon in the bank.

It was further submitted that the management has clearly admitted in Para-I that he was engaged for 2-3 hours during 18-07-1994 to 10-10-1996 so it is admitted case that the workman performed continuous duty from 18-07-1994 to 10-10-1996. This fact stands proved from the own admission of the management and the photocopies of documents filed by the workman.

It was further submitted that the management witness has admitted that all the bills belonging to his tenure have been passed by him. The MW1 has further admitted that the bills relate to taking water, rickshaw charges and outdoor service. So the workman has been performing peon duties and he has been also doing outdoor work just as delivery of dak to the other banks. The documents filed by the workman and cross of MW1 prove irrefutabily that the workman has worked as full time peon for two years in the year 1994-1995 and 1995-1996. He was engaged on 18-07-1994 so he worked for 5 months in 1994 for all the days in 1995 and up to 10-10-1996 in 1996. He has performed 240 days work in 1995 and 240 days work in 1996.

The Branch Manager has also issued a certificate that he was a temporary messenger and water boy on daily wages. The management has categorically admitted that the workman was engaged from 18-07-1994 to 10-10-1996. He was not a part time worker as he has been serving the bank during the bank hours and he has been carrying dak to different offices. He has been reimbursed rickshaw charges etc. He has been also supplying water so it cannot be said that he has been engaged for 2-3 hours.

Thus it stands proved that the workman has performed duty of a full time peon for 240 days in1995 and in 1996.

It was further submitted that no appointment letter has been issued to the claimant. It is not the case of the claimant that he was issued appointment letter. The claimant has consistenly stated that he was engaged as Sweeper-cum-Lunch Attendant initially on Rs.900/- per month and his last drawn salary was Rs.3900. This fact has not been denied anywhere in this case by the management. So it remains proved that the workman was initially engaged in April, 1995 and he worked up to 20-07-2002 and his last drawn salary was Rs.3900. So the case law cited 2005 (9) SCC 365 is squarely applicable in this case. Sufficient work was available and the work is still existing. The Bank cannot maintain three floors premises without a Sweeper-cum-Lunch Attendant.

It was submitted from the side of the management that an appointment made in violation of mandatory provisions of statute and in particular ignoring minimum educational qualification would be wholly illegal and such illegality cannot be cured by taking recourse to regularisation.

It was further submitted that appointment made on contractual basis cannot be regularised.Ad hoc appointment also cannot be regularised.

My attention was drawn to 2005 (4) AD (SC) 39, a three Judges Bench of the Hon'ble Supreme Court. In that case the reference culminated in an award directing the applicant to reinstate the respondent in service at his original post with continuity of service and back wages. The workman in that case has worked for 240

days and the Hon'ble Supreme Court dismissed the appeal of the management respondent and held that the workman is entitled to reinstatement with full back wages.

It was submitted from the side of the management that in 1997 (4) SCC 391 it has been held by the Hon'ble Apex Court that dispensing with service of persons engaged on daily wages in a Government Department is not retrenchment. This case law is not applicable as it relates to Article 309 of the Constitution.

My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wager cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wager even if serving for a short period should be reinstated.

My attention was also drawn to appeal No. 1968/2006 Constitution Bench Judgment in which it has been held that people engaged by Government on daily wages basis do not have the right of regularisation of their services even they have continued in the same job for years. There is no right of regular employment of a daily wager. This Constitution Bench Judgment relates to Article 226 of the Constitution and the Hon'ble Apex Court has held that daily wagers have no right of regularization.

In the instant case the workman has successfully proved that he has worked for seven years on the post of sweeper-cum-lunch attendant and when he demanded regularization he was asked not to come.

It was submitted from the side of the workman that in the instant case Section 25 F,G of the ID Act are attracted. In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of Section 25 F are not complied. In the instant case no compensation has been paid to the workman who has continuously worked for 7 years.

It was further submitted that Section 25T provides that the management should not indulge in unfair labour practice. Section 25U provides that a person who commits any unfair labour practice will be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to Rs. 1000/- or with both. The intention of the legislature in enacting 25T & 25U is obvious. The legislature wanted that in case Casual and Badlis are engaged for a long period, it amounts to unfair labour practice. There is punitive clause for committing unfair labour practice.

It was submitted from the side of the workman that Vth Schedule of the ID Act specifies some practices as unfair labour practice. The Vth Schedule clause 10 provides the criteria for ascertaining unfair labour practice. It is extracted as hereunder:—

> "To employ workman as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privilege of a permanent workman."

Clause 10 of the Vth Schedule stipulates that in case the workmen are employed as Casuals, Badlis or Temporary and they are continued as such for years, it will amount to unfair labour practice. In the instant case the workman has been continued as casual and temporary for 7 years. It establishes to the hilt that the respondent management has committed unfair labour practice. The workman has been engaged for 7 years as casual and temporary and thereafter he has been removed. He has not been paid retrenchment compensation.

It was submitted that Section 25 F, G, T, U and Clause 10 of the Vth Schedule of the I.D. Act have been deliberately violated.

The Consitutition Bench Judgment and the other judgment referred to above of the Hon'ble Supreme Court are not applicable in view of Section 25 F, T, U and Vth Schedule. In the Constitution Bench Judgment these matters were not at issue. In case a workman has worked for 7 years and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid Section 25 F of the ID Act is attracted. There is no cessation of his services. He deemed continued in service in the eye of law. In case there is breach of Section 25 F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed un-necessarily so Section 25 F, U, T and clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 shows that the respondent management should not be permitted to indulge in any unfair labour practice. The workman should not be engaged for years and then he should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no

retrenchment compensation has been paid so the workman deserves to be reinstated with 50% back wages.

It was submitted from the side of the management that in case it is proved that the workman has worked for 240 days, the court at the maximum award him some amount of compensation as he has been engaged against rules.

My attention was drawn (2000) 1 SCC Cases 530. The Hon'ble Apex Court in Regional Manager, SBI and Rakesh Kumar Tiwari has held, respondent workmen's appointment being totally adhoc, having been made without following any procedure inlaw or under any award or settlement, it would be ironical if they, who had benefited by the flouting of the rules of appointment could rely upon those very rules when their services were dispensed with.

The law cited by the management is not applicable as there judgments of three Judges bench of the Hon'ble Apex Court on this point and the law enunciated is that in case there is termination of services without payment of retrenchment compensation the normal rule is reinstatement with full back wages.

In case management has appointed a person by flouting the rules of appointment he cannot take that as a sword. If he does so he will perish by that sword. The intention of the legislature is to avoid appointment of casuals and temporaries and badlis. In case the management acts in violation of legislative intent, the breach can be remedied only reinstatement of the workman. (2006) 1 SCC 530 is not applicable in the facts and circumstances of the present case.

In 2005 IX AD(SC) 261 a 3 Judges Bench of the Hon'ble Apex Court has held that the direction of the Labour Court to the management to reinstate the workman in service as a daily wager with 50% back wages from the date of award till the date of reinstatement is valid and the Hon'ble Apex Court has refused to interfere in appeal of the management. A 3 Judges Bench of the Hon'ble Apex Court has held that in case a workman has worked for 240 days he is entitled to reinstatement with back wages and not to any compensation.

In 2005 (IV) AD SC 39 a 3 Judges Bench of the Hon'ble Apex Court upheld the award of the Court/ Tribunal. In this case the workman was daily wager Driver and he has worked for 240 days. He was reinstated with full back wages by the labour court. The Hon'ble Apex Court held that reinstatement with full back wages is justified.

In (2003) 1 SCC Cases 33. The Hon'ble Apex Court has held that reinstatement is justified. In 2001 LLR page 312 the Hon'ble Apex Court has held that reinstatement with back wages and other consequential benefits has held by the Labour Court is just.

The Hon'ble Apex Court in 1981 (2) SLR in Mohan Lal Vs. the Management has held as follows:

Industrial Disputes Act, 1947, Section 10 and 25 F Reinstatement—Retrenchment in violation of Section 25F—Termination ineffective—workman continues to be in service with all consequential benefits—Reinstatement normal rule-No case made out for departure from this normally accepted approach of the court.

In 1991 ILLJ page 387 the Hon'ble Apex Court has held as under:—

Held: Plain common sense dictates that the removal of an order terminating the services of workman must ordinarily lead to the reinstatement in the services of the workman. It is as if the order has never been and so it must ordinarily lead to back wages also. But there may be exceptional circumstances which make it impossible or wholly inequitable vis-a-vis the employer and the workman to direct reinstatement with full back wages. For instance the industry might have closed down or might be in service financial doldrums; the workman concerned might have secured better or other employment elsewhere and so on. In such situations, there is a vestige of discretion left in the Court to make consequential orders.

According to the judgment of 3 Judges Bench termination must ordinarily lead to reinstatement in service. A 3 Judges Bench of the Hon'ble Apex Court has enunciated the law that the normal rule is reinstatement with full back wages. Full back wages can be reduced only in exceptional circumstances just as loss etc.

There is no merit in the contention of the management that compensation should be given to the workman even if he has worked for 240 days continuously. As discussed above 3 Judges bench of the Hon'ble Apex Court has laid down the law that in such circumstances reinstatement with back wages is the only remedy as there is no cessation of service in the eye of law in case retrenchment compensation has not been paid.

(2006) 1 SCC 530 is not applicable in the facts and circumstances of the present case and in view of 3 Judges Bench enunciation of law.

The workman is a manual labourer. He must be doing some work off and on so in the fact and circumstances of the case 50% back wages will meet the ends of justice. He is entitled to reinstatement with 50% back wages.

The reference is replied thus:—

The action of the management of State Bank of India in terminating the services of Shri Vijay Singh, Ex. Temporary/Water Boy w.e.f. 11-10-1996 is neither just nor fair and nor legal. The management should reinstate the workman applicant w.e.f. 11-10-1996 with 50% back wages and make payment of the entire arrears within two months from the date of publication of the award. In case of default the workman applicant will be entitled to get 10% interest on his accrued back wages.

Award is given accordingly.

Date: 24-05-2006.

R.N. RAI, Presiding Officer

नई दिल्ली, 30 मई, 2006

का.आ. 2409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल कॉउंसिल ऑफ होम्योपैथी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं-II, नई दिल्ली के पंचाट (संदर्भ संख्या 13/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-06 को प्राप्त हुआ था।

[सं. एल-42012/5/1998-आई आर (डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 30th May, 2006

S.O. 2409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/99) of the Central Government Industrial Tribunal cum Labour Court, No.II New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Council of Homoeopathy and their workman, which was received by the Central Government on 30-5-2006.

[No. L-42012/5/1998-IR(DU)]

SURENDRA SINGH, Desk Officer.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COUT-II, NEW DELHI

PRESIDING OFFICER : R. N. RAI
I.D. NO. 13/1999

In the matter of :—

Shri Vijay Singh,
S/o Late Sh. Chaman Lal,
R/o 53, Block A, Gali No. 1,
Suraksha Vihar (Vikas Nagar),
New Delhi-110059

Versus

The President, Central Council of Homoeopathy,
61-65, Institutional Area,
J.L.N. Bhartiya Chikitsa avum Homoeopathy,
Anusandhan Bhawan, Opp. D-Block,
Janak Puri,
New Delhi-1100058.

And

The Gen. Secretary, I.S.M. and H. Council Emp. Asstt.,
61-65, Institutional Area,
J.L.N. Bhartiya Chikitsa avum Homoeopathy,
Anusandhan Bhawan, Opp. D-Block,
Janak Puri,
New Delhi-110058.

AWARD

the Ministry of Labour by its letter No. L-42012/5/98-IR (DU) Central Government dt. 30-11-98 has referred the following point for adjudication.

The points runs as hereunder :—

"Whether the demand made by the Indian Systems of Medicine and Homoeopathy Council's Employees Association against the continuous suspension of Shri Vijay Singh, by the management of Central Council for Homoeopathy as contained in the application dated 06-05-1997 is legal and justified? If so, to what relief the workman is entitled?"

That on 30-01-1980 the charged officer having been appointed as Stenographer in the scale of 330-560 in the office of the Central Council of Homoeopathy, was promoted on 01-12-1988 as Senior Stenographer in the scale of Rs. 1400-2300.

That vide order No. 2-3/96-CCH/2426 dated 23-7-96 (Annx. 1) these of the Secretary of the Central Council of Homoeopathy the charged officer was placed under suspension.

That vide order No. 2-3/96-CCH/13268 dated 29-01-97 (Annx. 2) the President, Central Council of Homoeopathy was pleased to dismiss the appeal of the charged officer, preferred against the impugned order of suspension.

That in consequence of a meeting with the President, Central council of Homoeopathy on the verbal instructions of the latter a respondent dated 06-10-1998 (Annx. 3) on the above subject was submitted by (Mr. T. N. Chaturvedi) General Secretary, Indian System of Medicine and Homoeopathy Council Employees Association, New Delhi for favourable consideration by the President, Central Council of Homoeopathy, but the date of the said representation has not been intimated to the applicant or the charged officer.

That the applicant charged officer vide his application dated 06-05-1997 (Annx.4) challenged the vires including the structure of the standing orders framed by the Central Council of Homoeopathy in virtue of which the charged officer was placed under suspension.

That the charged officer being the employee of the Central Council of Homoeopathy and with the prior espousal of the General Secretary, Indian System of Medicine and Homoeopathy Councils Employees Association is competent enough to move the Labour Court against the impugned order of suspension including the service conditions relating to the employee of the Central Council of Homoeopathy.

That the jurisdiction of the Industrial Tribunal to entertain industrial dispute bearing on the standing order is not abridged or taken away by the Industrial Employment (Standing Orders) Act, 1946.

That the applicant charged officer by means of the original application (Annx. 4) referred to above as well as amply showed as to on what grounds the standing orders framed by the Central Council of Homoeopathy in question are in violation of stipulatory provisions, and hence arbitrary, misconceived, without competence and hence illegal.

That the standing orders framed by the Central Council of Homoeopathy are devoid of any force because the impugned standing orders do not bear the date of their being drafted as required u/s 3 of the Industrial Employment (standing orders) Act, 1946, further that these orders are not certified by the Certifying officer of the Central Govt., again that the draft of the standing orders was never brought to the knowledge of the workers as well as Association of the Central Council of Homoeopathy meaning thereby that the standing orders have been confirmed without the consent of the employees of the Central Council of Homoeopathy; further that the impugned standing orders have no formal or statutory status in absence of the certification by the competent Certifying officer; further that the Central Govt. has not framed model standing orders as required u/s 15 (2) (b) of the Act, 1946 so that fairness or reasonableness of the impugned standing orders of Central Council of Homoeopathy could be tested on the anvil of the Model standing orders.

That the Central Civil Services (classification, Central and Appeal) Rules are not applicable to the employees of the Central Council of Homoeopathy. There is no denying the fact that the Central Council of Homoeopathy is a statutory body. It is not a sovereign body. There is no denying the fact that the Central Council of Homoeopathy is a statutory body. Not being a government body the employees of the Central Council of Homoeopathy are not entitled to all themselves as government servants. This fact is confirmed by the office Memo No. 2-3/96-CCH/13540 dated 31-01-1997 (Annx. 6) as well as Memo No. 2-3/96-CCH/1046 dated 30-04-1997 (Annx. 7) passed by the Central Council of Homoeopathy. In the wake of these Memos Employees of the Central Council of Homoeopathy are Council's servants.

Moreover, the suspension of the charged officer has been ordered in accordance with the rule 28 of the standing orders of the Central Council of Homoeopathy and not in accordance to the C.C. S. (C.C. and A) Rules.

That a perusal of grounds/charged for suspension levelled against the charged officer are flimsy, untenable and not covered by the statutory provisions as none of the charged related to corruption, henious, misconduct etc. Moreover, almost all the charges have already inquired or investigated to the full extent, suspension of the charged officer on the same, old and already enquired grounds and circumstances, will subject him to the vice of double jeopathy.

That the impugned suspension is not an isolated factum. The cause of the suspension related to have started from the period when the charged officer has been posted as Personal Assistant at the residence of Dr. S.P. S. Bakshi, President, Central Council of Homoeopathy. As a persoal Assistant of Dr. S.P.S. Bakshi the charged officer vide his representation dated 27-4-94 (Annx. 8) had brought to the kind notice of the Central Govt. that the President, Central Council of Homoeopathy had to take his personal and private work from the charged officer. The charged officer had personally objected to Dr. S.P. S. Bakshi not to utilise his services by getting the extract typed from the voluminous record contained in the Neel Gagan Note Book belonging to the father of Dr. S.P.S. Bakshi . Annoyed and infuriated as a result of the weakness on his part Dr. S.P. S. Bakshi ordered the transfer of the charged officer from his residence to the office of the Central Council of Homoeopathy.

That the President Dr. S.P. S. Bakshi in connivance with the Secretary, namely Dr. Lalit Verma of the Central Council of Homoeopathy apart from placing the charged officer under suspension have been harassing the charged officer in respect of a number of service conditions relating to his increment, earned leaves, promotion to the post of office superintendent, arrears of pay, confirmation of his service, revision of pay, undue deduction of H. R.A., medical facilities and reduction of subsistence allowance by 25% in respect of which the charged officer has already brought to the notice of the Government vide representation dated 27-04-1994 (Annx. 8).

The management has filed written statement. In the written statement it has been stated that the above application as filed by the applicant is not maintainable since the above matter has been referred to this Hon'ble court by the Ministry of Labour, Govt. of India for determining the short question which is as follows:—

"Whether the demand made by the Indian Systems of Medicine and Homoeopathic Council's Employees Association against the continuo is suspension of Sh. Vijay Singh by the Management of Central Council for Homoeopathy, as contained in the application dated 6-5-97, is legal and justified? If so, to what relief the workman is entitled?"

Instead of making application on the above issue, the applicant has tried to mislead this Hon'ble Court by raising various other issues like increment, confirmation of service, pay with arrears, promotion, Revision of pay scales, deduction of H.R.A, Payment of Subsistence allowance, etc., which totally irrelevant issues and have not been referred for adjudication to this Hon'ble Court. Even the Govt. of India has rejected his request on these issues as per Annexure—R as all these matters are of administrative nature. In the above application, the applicant has twisted the facts to his convenience in order to mislead this Hon'ble Court by raising the issues which have already been taken in the charge-sheet and for inquiring into the facts, inquiry authorities have been appointed as per laid down procedure. So far, three times inquiry officer have to be changed due to non-cooperative attitude and delaying tactics of the applicant, and for such reasons the inquiry process could not even established the biased attitude a alleged by him against the first Inquiry Officer. The second Inquiry officer too complained about the applicant's Non-cooperative attitude and his inability to conduct the inquiry

in such circumstances. Unless the inquiry process is completed, the short point of reference before this Hon'ble Court may not be decided.

The brief facts of the above case are that the applicant was placed under suspension w.e.f. 23-7-96 and charge-sheet was served upon him within the stipulated time and the Inquiry Officer was appointed for the first time on 17-10-1996. But due to non cooperation of the applicant, the Inquiry Officer was forced to wind up the inquiry process without completing it. The daily proceedings of the Inquiry Officer is mentioned in para (ii) below. To be fair to the applicant, another inquiry officer was appointed on 23-09-1998 and the applicant purposefully, on one or the other pretext, tried to challenge the appointment and authority of Inquiry Officer appointed on 23-09-1998 and in these circumstances, the Inquiry Officer (Dr. Manchanda) also left the inquiry in between.

Now for the third time, Inquiry officer duly approved by Central Vigilance Commission has been appointed on 30-12-1999 and he has also conducted preliminary inquiry and has given the direction to the applicant to intimate the inquiry authority about his defence Assistant by 3rd March, 2000. Instead of doing the needful as directed by the Inquiry officer, the charged officer/applicant has challenged the appointment of Presenting Officer. As has already been stated above, this is the third time when an Inquiry Officer has been appointed by the disciplinary authority and the applicant before this has never objected to the appointment of Presenting Officer, whereas the applicant appeared before all the Inquiry Officer. Such an act of the applicant is ample proof that he is adopting delaying tactics and is not serious in getting the inquiry process completed and this is resulting in his prolonged suspension. It is, therefore, submitted that the above applicant may be directed to appear before the Inquiry Authority and co-operate and get the Inquiry process completed instead of approaching the Central Govt. or this Hon'ble Court.

The Desk Officer, Govt. of India, Ministry of Labour, vide his order dated 23-01-1998 has also observed that the Central Government do not consider this to be a fit case for reference for adjudication due to the following reason :

> "It is found that the enquiry proceedings have been started and the final outcome is yet to come. Hence any dispute raised on this subject is premature."

A copy of the above order I Annexure-R/1 hereto.

(ii) Inquiry Officer have to be changed three times during the period of suspension of the applicant as the applicant has throughout been non-cooperative and has always adopted delaying tactics by raising objections regarding the appointment of Inquiry Officer, etc., and has sought adjournment on one pretext or the other which has resulted in unnecessary delay in conducting the inquiry. Copies of some of the objection raised by the applicants are Annexure—R/2 (colly) hereto.

In view of the above, it is quite clear that the Applicant/Charged Officer is intentionally adopting dilatory tactics and he is himself responsible for causing delay in the conduct of inquiry and is creating unnecessary hurdles in the conduct of Inquiry process. The applicant was suspended on 23-07-1996 and charge-sheet was served upon him on 31-07-96 within the stipulated time and the Inquiry Officer was appointed. But due to non-cooperation of the applicant, the Inquiry Officer was forced to wind-up the Inquiry process without completing it. To be fair to the applicants, another Inquiry Officer was appointed, but the applicant purposefully, on one or the other pretext, tried to challenge the appointment and Authority of Inquiry Officer appointed on 30-12-1999.

(iii) That in the above application filed by the Applicants under Section 10 of the Industrial Disputes Act, the applicant has raised all irrelevant issues which he has been raising throughout before the Labour Commissioner (N.C.T. of Delhi) as well as before Assistant Labour Commissioner (Central) New Delhi and which have been considered irrelevant and hence are barred by res judicata since the Central Government had declined adjudication of the same vide their letter dated 23-01-1998 (Annexure—R/1 above). Copy of the issues raised by the above applicant on 05-06-1997 before Asstt. Labour Commissioner (Central), Curzon Road Barracks, K.G. Marg, New Delhi which are exactly similar to the issues raised in the above application are Annexure—R/4 hereto. Earlier to this, the applicant had moved a similar application before Asstt. Labour Commissioner, Karampura, New Delhi also which he later on requested for transferring to Asstt. Labour Commissioner (Central) in order to delay the whole process but the applicant did not appear before the and hence the matter was closed. A copy of the said observation dated 21-01-1997 is Annexure—R/5 hereto.

(iv) The relief prayed by the applicant in the above application is barred by res judicata since the applicant has already prayed for similar reliefs earlier also in his application under section 7 of industrial Dispute Act moved on 05-09-1994 before Labour Commissioner, Rajpur Road, Delhi.

(v) This Hon'ble Court has no jurisdiction to try, entertain and decide the above application under Section 10 of Industrial Disputes Act filed by the applicant since the Central Council of Homoeopathy as not an "Industry" nor the applicant is a "workman".

The Government of India, Ministry of Labour vide its letter No. L-42012/5/98-IR (DU) dated 7th/17th July, 1998 (Annexure—R/6 hereto) has clarified as follows :—

> "1. In the absence of enforcement of the amended Section 2 (j) of the I.D. Act, any Educational, Scientific, Research or Training Institution will continue to be treated as "Industry".

In view of the above clarification, it is clear that the Central Council of Homeopathy is not an Industry since it is not an Educational, Scientific, Research or Training Institution. The Central Council of Homoeopathy, i.e., the answering respondent, is a purely regulatory Body and has no role in conducting education, teaching, research or training, etc. The Central Council of Homeopathy is the Statutory Body constituted in December, 1974 under an Act of Parliament, namely, Homoeopathy Central Council Act, 1973 by the Government of India for maintenance of a

Central Register of Homoeopathy and for matters connected therewith.

(vi) The applicant has moved the instant application before this Hon'ble Court after a delay of more than one year from the date of reference and such a long delay has not been explained at all. Moreover, the above application has not been signed by the application and it has not been duly varified or supported with an affidavit as per law.

It is submitted that the applicant was placed under suspension w.e.f. 23-7-1996 whereas his letter I of 6-5-1997 (much after his suspension), which is an afterthought service of the employees of the Council is regulated under the provisions of Homoeopathy (Central) Regulations and standing orders made thereunder. The applicant is getting benefits like pay, allowances, increments, leaves, CPF/GPF and all other service benefits under the Homoeopathy Central Council Act, General Regulations of standing order made thereunder from his date of joining but he has never injected to the provisions of standing orders earlier then this application and has been regularly deriving all benefits according to the above provisions of the standing orders which he has now challenged. It is ample clear that the Disciplinary Authority initiated disciplinary proceedings, the applicant has challenged the sanctity of the standing orders which is not maintainable. It is submitted that the above matter has been referred to this Hon'ble Court by the Government of India for determining whether continuous suspension of the applicant is legal and justified? Whereas the applicant has twisted the facts by mentioning the impugned order of suspension which is misleading. The applicant was suspended on 23-7-1996 and chargesheet was served upon hin on 31-7-96 within the stipulated time and the Inquiry Officer was appointed. But due to non-cooperaiton of the applicant, the Inquiry Officer was forced to wind-up the Inquiry process without completing it. To be fair to the applicant another inquiry Officer was appointed, but the applicant purposefully, on one or the other pretext, tried to challenge the appointment and Authority of Inquiry Officer.

This Hon'ble Court has no jurisdiction to entertain and try the above application since it is not a dispute under labour laws nor the Central Council is an Industry. The Council has only employees and no workman as alleged. Right from the beginning, the applicant has been an irresponsible person and the Council has issued Memo No. 212/80-CCH (pt.) 2020 dated 10-6-1994 and various other Memos dated 28-10-91, 5-10-93, 4-11-93, 18-11-93, etc., to the applicant for unauthorised absence, disobedience, negligence and dereliction of duty.

This Hon'ble Court has no jurisdiction to entertain the above application. Moreover, the Standing Orders have been framed by the Central Council under the General Regulation which has prior approval of Central Gvoernment. The Central Council of Homoeopathy (General) Regulations, were framed under section 33 of Homoeopathy Central Council Act, 1973 and were notified in the Gazette of India on 30-11-1985. The Central Council framed its Standing Orders under Regulation 57 of Central Council of Homoeopathy (General) Regulations.

The Industrial Employment (Standing Orders) Act, 1946 is not applicable even otherwise to the answering respondent, *i.e.* Central Council since Section 1(3) of the above Act provides that it applies to every Industrial establishment wherein 100 or more workman are employed, or were employed on any day of the proceeding twelve months. Whereas Central Council has only a small number of employees not exceeding 37 in all. Further, since the C. C. A. (C. C. S.) Rules and other F. R. & S. R. as applicable to Central Government employees have been adopted by the Central Council as per Standing Orders of the Central Council, the Industrial Employment (Standing Orders) Act, 1946 shall not be applicable. It has already been stated above that neither the Central Council is an Industrial.

Establishment nor its employees are workman. the Central Council is not governed by Industrial Employment (Standing Orders) Act, 1946 in view of the provisions of Section 1(3) of the said Act since the number of employees in the Central Council is only 33 at present out of the sanctioned strength of 37.

The Central Council of Homoeopathy is a statutory Body. The C.C. A. (C. C. S.) Rules and other F. R. & S. R. as applicable to the Central Government employees have been adopted by the Central Council as per Standing Orders of Central Council framed under Regulation 59 of Central Council of Homoeopathy (General) Regulations. The employees of the Central Council with three years of continuous service or more will for the purposes of drawal of increments, fixation of pay, grant of personal advance, be treated in the same manner and shall be subject to the same rules as are applicable to permanent Govt. servants and to the staff with less than three years service the rules as for temporary Govt. servants shall apply. The applicant joined his service w.e.f. 30-01-1980 and he has unequivocally accepted and has been following the same Standing Orders of the Central Council since last 20 years without any objection. His appointment, salary, working hours, leaves, C. P. F., gratuity, medical facilities, L. T. C., holidays and all other service benefits are regulated and governed by the same Standing Orders which he is now challenging, thereby implying that his very employment with the Central Council is null and void.

The charges put against applicant are being inquired but delay has been due to his being not co-operative. Till date Inquiry Officers have to be changed thrice and he is not co-operating with them. Nothing can be said about the charges levelled against him unless it is enquired into by the Inquiry Authority for which the applicant is not co-operating at all.

It is submitted that the applicant has tried to mislead this Hon'ble Court by raising the issue which have already been taken in the charge sheet and for inquiring into the facts, Inquiry Authorities have been appointed as per laid down procedure. Unless the inquiry procedure is completed, no comments can be offered on the allegations of the applicants. But due to the applcaint's non co-operation as stated in para 6 and preliminary objection no. (ii) above, the Inquiry process has been prolonged and for which the

applicant is himself responsible and not the answering respondent.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he was not suspended according to the Standing Orders framed by Central Council of Homoeopathy. He has been suspended arbitrarily, illegally and in violation of statutory provisions.

It was further submitted that the Standing Orders framed by the Central Council of Homoeopathy (henceforth referred to as CCH) are devoid of any force because they do not bear the date of there being drafted as required u/s 3 of Industrial Employment Act, 1946. These Standing Orders are not certified by the Certifying Officer of the Central Government and these Standing Orders were not brought to the notice of the association of the Central Council of Homoeopathy i. e. the employees of CCH. These Standing Orders have no formal and statutory status in the absence of the certification of the competent Certifying Officer. The CCA Rules are not applicable to the applicant workman.

It was submitted from the side of the management that the Industrial Employment Act, 1946 (referred to henceforth as Act, 1946) is not applicable even otherwise to the answering respondent. The Act, 1946 is applicable where the strength of the employees is 100 or more. The strength of the employees of the CCH is 37 in all.

It was further submitted that CCA (CCS Rules) and other FR & SR as applicable to the Central employees have been adopted by the Central Council. Act, 1946 is not applicable to the workman.

It was further submitted that as per Standing Orders of Central Council framed under Regulation 59 of the Council of Homeopathy (General Regulations), the CCH as adopted CCA (CCS Rules) and other FR & SR. The workman and the union have accepted it and the same Standing Orders are enforced for 20 years without any objection. The service matter of all employees of CCH are governed by CCA (CCS Rules). The union has not objected to the same.

It was further submitted that the vires of the Certified Standing Orders have been challenged un-necessarily. The reference is regarding continous suspension of the workman. The Tribunal has to see whether the workman remained continuously suspended illegally and malafidely.

The word continuous used in the reference indicates that the workman has remained suspended for a long period and inquiry has not been conducted so suspension is bad in view of it being continued for a long time. The vires of the Standing Orders framed by the CCH have not been referred to for adjudication. The CCH has adopted CCA and CCS Rules as mentioned above and the same Rules are applicable in the service matters of the workman. Industrial Employment Act, 1946 is not applicable in view of the strength of the employees. The contention of the workman is not sustainable and has no merit and it has not been even referred to in the reference. It is devoid of merit. The contentions are not sustainable.

It was further submitted from the side of the workman that the management has kept him suspended for a long period out of malice. The respondent wanted to take private work from the workman other than the official work assigned to him. The workman objected to the same. The management got annoyed and suspended him. So suspension is illegal, arbitrary and unjust. Suspension is not a punishment so it cannot be inquired into by this Tribunal. The substantial question is whether the workman has remained illegally suspended for a long period out of malice and inquiry has not been conducted against him promptly. In case suspension is prolonged and inquiry is not held promptly, malafide attitude can be inferred.

It was submitted from the side of the management that inquiry was promptly initiated. It was the workman who complained against the Inquiry Officer three times. Throughout the inquiry proceedings the workman has adopted non-cooperative attitude and delaying tactics by raising objections regarding the appointment of Inquiry Officer and has sought several adjournment in one pretext or the other. Un-necessary delay has been caused due to delaying tactics of the workman. The workman is himself responsible for the delay in the conduct of inquiry as he has been un-necessarily creating hurdles in the inquiry proceedings. He was suspended on 23-07-1996 and charge sheet was served upon him on 31-7-1996 within the stipulated time and the Inquiry Officer was appointed but due to non-cooperative attitude of the CSE the Inquiry Officer was forced to wind up the inquiry process without completing it. Another Inquiry Officer was appointed but the workman challenged the appointment of the Inquiry Officer and hence beset Inquiry Officer was appointed. So delay in the inquiry proceedings is as a result of delaying tactics of the workman and his non-cooperative attitude. I have perused the inquiry proceedings. It is true that the workman has sought unnecessary adjournment and he has levelled allegations against three Inquiry Officers so the inquiry could not be completed promptly in view of delaying tactics of the workman himself. One who causes delay cannot complain of delay. The inquiry proceedings have been delayed purposely by the workman so he has remained continuously suspended. There is no fault with the respondent.

It was further submitted from the side of the respondent that the respondents are not an Industry. The CCH is not an educational scientific research or trainign institute. It is purely a regulatory body and has no role in conducting education, teaching, research and training. It is statutory body constituted in December, 1974 under the Act of Parliament namely Homoeopathy

Central Council Act, 1973 by the Government of India for maintenance of Central Register of Homoeopathy and for matters connected therewith. It is an advisory body of the Government of India in the field of Homoeopathy and it is not engaged in any activity of production, supply or distribution of material goods and service. Hence it does not come under the purview of the Industrial Dispute Act and the provisions of the ID Act are not applicable on it. It functions like similar other institution just as Central Agricultural Research Institute. Physical Research Laboratory, State for Corporation. The Hon'ble Supreme Court in 1998 Lab IC 1490 held that Central Agricultural Institute is not an Industry. In 1997 II LLJ 625 the Hon'ble Supreme Court has held that Physical Research Laboratory is not an Industry.

It as been further held by the Madras High Court that State Forms Corporation is not an Industry. It has been held in (1996) 2 SCC 293 that the Government Department ent is not an Industry.

It was further submitted that the workman was of doubtful integrity. He was a drug addicit. He consumed smacks and he is a habitual drunkard. He used to forge signatures of Secretary, Central Council on important official documents. He misbehaved with the lady employees and beat his juniors. He absented himself from duty. He indulged in insubordination and refused to accept official communication. He used abusive language. So he was suspended and after inquiry he was compulsorily retired.

It was further submitted from the side of the management that the Hon'ble Apex Court in 2000 SCC (L&S) 731 has held that in case the performance of an employee is un-satisfactory and he has a tendency to resort to litigation un-successfully, the employer can retire him. The employer can inflict on him the punishment of compulsorily retirment in public interest.

The substantial question is whether the CCH is an Industry or not. The CCS is a body corporate. It carries on systematic activities. It maintains the Central Register of Homoeopathy for matters connected therewith so the CCH carries on systematic activity. It is an advisory body of the Government of India in the field of Homoeopathy. It is true that the CCH does not carry activiy of production, supply or distribution of the material goods and service. It is an Industry in view of the decision of the Apex Court in Bangalore Water Supply. It has been held in this case.

It was submitted from the side of the workman that the judgment of the Constitution Bench (1978) 3 SCR 207 still holds the field so far as definition of 2 J of ID is concerned. The Hon'ble Apex Court in that judgment has laid down triple tests and in the light of these tests it is to be ascertained whether the respondent management is an Industry or not.

It has been held in Bangalore Water Supply that in an Industry there should be systematic activity and it should be organized by cooperation between the employer and the employees and it should be for production and/or distribution of goods and service calculated to satisfy human wants and wishes. It has been held that, absence of profit motive or gainful objective is irrelevant. The true focus is functional and the decessive test is the noture of the activity with special emphasis on the employer and employee relations. If an organization is carrying on trade and business, it is not beyond the purview of Industry activities.

If the triple tests as laid down by the Constitution Bench Judgment is applied in this case the respondent management is obviously an Industry. The workman was appointed as Steno and he performed services for a pretty long time. There was employer and employee relationship between the workman and the management. The respondent carries on systematic activity in the field of Homoeopathy. There is an organization of 37 employees and they are acting in cooperation with each other. The respondent management is an employer and the workman is an employee. There is direct relationship of employer and employee. The respondent management is not engaged in production or distribution of goods but it carries on the activity of distribution of services. It provides service to the Central Govemment as has been stated in the written statement.

It has been held in this case that absence of profit motive or gainful objective is irrelevant. It implies that if an undertaking is not entrusted with production and supply of goods but it is carrying on some sort of activities and it is rendering services to the Government, it is an Industry. All the triple tests laid down by the Hon'ble Apex Court judgment are fulfilled. The respondent management is Central Council of Homoeopathy. It maintains register and it advices the Government on the subject of Homoeopathy. It has enrolled 37 employees. It is carrying on systematic activities with these employees as such there is employer and employee relationship and the decesive test is the nature of activity. An undertaking which carries philanthrophy activities is also an Industry. Manufacture of goods, supply of goods, trade and business for means of profit are irrelevant for an undertaking to be an Industry. The respondent management in view of the criteria laid down by the Hon'ble Apex Court judgment is an Industry. Its employees are workmen. They are not discharging sovereign function or the function of Police. They are not holding Civil Posts directly under the Government. Such employees are industrial workmen. The law cited by the respondent management is not applicable in the facts and circumstances of the present case. It is held that the respondent management is very much an Industry.

It has been held above that suspension is not malafide and illegal. The continuous suspension of the workman was valid.

The reference is replied thus:

The demand made by the Indian Systems of Medicine and Homoeopathy Council's Employees' Association against the continuous suspension of Shri Vijay Singh, by the management of Central Council for Homoeopathy as contained in the application dated 06-05-1997 is nethier legal nor justified. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

Dated 15-5-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 30 मई, 2006

का. आ. 2410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई डी-376/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2006 को प्राप्त हुआ था।

[सं. एल-12012/5/2004-आई आर (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 30th May, 2006

S.O. 2410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 376/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 30-5-2006.

[No. L-12012/5/2004-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 17th March, 2006

PRESENT: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 376/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN

Sri S. Nagarajan : I Party/Petitioner

AND

The Chief Manager (Per), : II Party/Management

State Bank of India, ZO., Chennai.

APPEARANCE:

For the Workman : M/s. Balan Haridas & R. Kamatchi Sundaresan, Advocates.

For the Management: M/s. K.S. Sundar, Advocates.

AWARD

The Central Government, Ministry of Labour *vide* Order No.L-12012/5/2004-IR(B-I) dated 21-06-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

> "Whether the action of the management of State Bank of India in depriving employment to Shri S.Nagarajan is justified? If not, to what relief is he entitled to?"

2. After the receipt of the reference, it was taken on file as I.D.No.376/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:-

The Petitioner was engaged as temporary messenger in the CIT Nagar branch of the Respondent/Bank during the year 1982. He was engaged against the regular post of messenger. The Respondent/Management has called for interview all these temporary messengers, who had completed 90 days of service as on 31-10-1984. The Petitioner has also attended the interview but instead of regularising his service, the Respondent had continued to engage the Petitioner as a temporary messenger. Thus, he has worked as temporary messenger in the Respondent/ Bank's various branches in Chennai. The work discharged by him and the permanent messengers were identical. Only to deprive the status and privilege of permanent workmen, the Respondent has made unfair labour practice. Whenever the Petitioner requested the Respondent/Bank to regularise his services, the Respondent/Bank promised to do so shortly. But, contrary to their promise, the Respondent/ Bank not only refused to make him permanent, but refused to give employment to the Petitioner from December, 1998. Further, the Respondent has also retained many of the juniors of the Petitioner and their services have been regularised which is in violation of Section 25G, 25H of the I.D. Act. The Petitioner has worked for more than 240 days in a continuous period of 12 calendar months more particularly, in the year 1998. While calculating 240 days the festival holidays, national holidays and other weekly holidays have to be taken into account. Further, without complying with the mandatory provisions of Section 25F of the I.D. Act, the Respondent had terminated the services of the Petitioner from December, 1998, therefore, such termination amounts to retrenchment. Therefore, the action taken by the Respondent is illegal, arbitrary and in violation of Section 25F, 25G and 25H of the I.D. Act. Therefore, the Petitioner is entitled to reinstatement as permanent massenger from the date of his appointment and also prays for continuity of service, back wages and all other attendant benefits.

4. As against this, Respondent in its Counter Statement contended that the reference made by the Government of India, Ministry of Labour for adjudication by this Tribunal itself is not maintainable. The Petitioner was not in continuous service, hence the question of regular absorption/ appointment does not arise at all. The Petitioner is estopped from making a claim as per Claim Statement, as he had accepted the settlements drawn under the provisions of Section 18(1) and 18(3) of I.D. Act. The Petitioner concealed the material facts that he was waitlisted as per his length of his engagement and could not be absorbed as he was positioned lower down in seniority. The Respondent/ Bank was engaged the temporary employees due to business exigencies and on account of urgent needs. When such employees claimed permanent absorption and when their cases were espoused by State Bank of India staff federation, the Respondent/Bank entered into five settlements with the federation on 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 and the above said settlements became the subject matter of conciliation proceedings and minutes of settlements were drawn under Section 18(3) of I.D. Act. In terms of the settlement, the Petitioner was considered for permanent appointment as per his eligibility along with the similarly placed other temporary employees. The Petitioner waitlisted as a candidate in the waitlist of Zonal Office, Chennai and so far 357 wait listed temporary employees out of 744 waitlisted temporary employees were permanently appointed in the bank. The Petitioner was engaged only in leave vacancy and as per settlement dated 17-11-87, temporary employees were categorised as A, B and C and as per clause 7, the length of temporary service was to be considered for the seniority in the waitlist. The wait list which was to lapse on December, 1991 and the cut off date was extended upto 31-3-97 for filling up vacanciles which were to arise upto 31-12-94 . It is false to allege that the Petitioner has worked for 240 days in a continuous block of 12 calendar months. Therefore, the Petitioner has no valid and enforceable right for appointment. This Respondent had implemented VRS and even the permanent sanctioned vacancies stand substantially reduced. The settlement entered into were bonafide which were only workable solution and is binding on the Petitioner. The Petitioner accepted the settlements and accordingly he was waitlisted as candidate. Therefore, the Petitioner is estopped from questioning the settlement directly or indirectly and his claim is liable to be rejected. Since this Respondent is not an industrial establishment, Chapter V B of I.D. Act does not apply to Respondent/Bank. The Petitioner was engaged for more number of days in the year 1998, only because he was waitlisted as candidate, it cannot be said that the action of Respondent amounts to unfair labour practice. Since there was no retrenchment, the question of complying with provisions of Section 25F does not arise at all. Lapse of wait list was approved by the High Court of Orissa and the Hon'ble Supreme Court had confirmed the same by its order. After the expiry of wait list, the Petitioner has no claim for permanent absorption/ appointment and hence, his claim petition is liable to be dismissed. Hence, for all reasons, the Respondent prays to dismiss the claim with costs.

5. Again, the Petitioner filed a rejoinder in which he alleged that the Petitioner was not a party to the settlements dated 17-11-87, 16-7-88, 9-1-91 and 9-6-95 alleged to have been entered with State Bank of India Staff Federation. In any event, the Petitioner is not a party to the above settlements and the same will not be binding on him. Further, at no point of time, the Petitioner was put on notice about settlements. It is false to allege that the Petitioner worked only on temporary basis in leave vacancies. Even when the alleged settlements were in existence, the Respondent engaged the Petitioner as temporary messenger. Therefore, the relevance placed on the settlement dated 17-11-87 is of no consequence. Hence, he prays that an award may be passed in his favour.

6. Then again, the Respondent filed an additional Counter Statement with the leave of the Court in which it is alleged that the Petitioner is a daily wager and a casual employee and hence he was not waitlisted along with other eligible temporary employees. As per settlements dated 7-10-88 and 9-1-91 the claim of daily wagers like the Petitioner can be considered only after appointing all the eligible temporary employees against the enumerated vacancies. Since 357 temporary employees were appointed and thereafter the wait list lapsed, the claim of the Petitioner was not considered. Hence, the Respondent prays that the claim may be dismissed with costs.

7. Then again, the Petitioner filed additional rejoinder wherein it is alleged that he was engaged as messenger in the year 1982 in a regular post and he was paid wages on monthly basis for every month, but the Respondent has given deliberate breaks with a sole intention to over reach the law. Apart from working as messenger, the Petitioner worked on petty cash basis. Hence, he prays that an award may be passed in his favour.

8. In these circumstances, the points for my consideration are :—

(i) "Whether the action of the Respondent/ Management in depriving employment to the Petitioner Sri S. Nagarajan is justified?

(ii) To what relief the Petitioner is entitled"?

Point No. 1 :—

9. The Petitioner alleged in this dispute that he has been engaged as a temporary messenger against the regular post in the Respondent/Bank branch at CIT Nagar, Chennai during the year 1982 and he has served in various places and all of a sudden, during December, 1998 the Respondent refused to give employment to the Petitioner. On the other

hand, juniors to the Petitioner were engaged as regular employees. Further, the Petitioner has completed 240 days in a continuous period of 12 calendar months and the Respondent without complying with the provisions of Section 25F of the I.D. Act has terminated his service, therefore, it is *void ab initio* and hence, he prays for reinstatement with continuity of service, backwages and other attendant benefits. The Petitioner has examined himself as WW1 and marked Ex.W1 to W30.

10. As against this, the Respondent contended that the Respondent/Bank was engaging temporary employees due to, business exigencies and on account of urgent needs and this was prevailed from the year 1970 onwards and when such temporary employees were claiming permanent absorption, their cause was espoused by the State Bank of India Staff Federation, the Respondent/Bank entered into five settlements dated 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 with the Staff Federation and the above said settlements became the subject matter of conciliation proceedings and minutes of settlements were drawn under Section 18(3) of I.D. Act and in terms there of temporary employees was considered for permanent appointment as per their eligibility along with the similarly placed other temporary employees. Even though the Petitioner was working as a temporary messenger from the year 1982, he was included in the wait list and therefore, he cannot claim to be regularised in the services Respondent/Bank. Further, the allegation that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months is false. Hence, he has no valid or enforceable right for appointment and therefore, it is the contention of the Respondent that the Petitioner is not entitled to any relief. On the side of the Respondent one Mr. Mariappan, Manager of the branch was examined as MW 1 and on their side ten documents namely Ex.M1 to M10 were marked.

11. The Petitioner has produced Ex.W1 copy of certificate issued by Respondent/Management stating that the Petitioner has worked for 81 days from 10-6-82 to 1-9-82 and he also produced copy of certificate issued by Respondent/Bank branch in July, 1984 as Ex. W2 wherein it is mentioned that he has worked for 26 days as substitute messenger. The Petitioner has produced Ex.W6 in which if it mentioned that he has worked for 65 days in the year 1984 from September to December. Learned counsel for the Respondent contended that eventhough the Petitioner has alleged that he has worked for more than 240 days in a continuous period of 12 calendar months, he has not established this fact with any satisfactory evidence and the learned counsel for the Respondent contended that in the case of RANGE FOREST OFFICER *Vs.* S.T.HADIMONI 2002 3 SCC 25 wherein the Supreme Court has held that *"it was the case of the claimant that he had worked but this claim was denied by the appellant and it was then for the claimant to lead evidence to show that he had infact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court to come to a conclusion that workmen had infact worked for 240 days in a year. No proof of receipt of salary or wasyes for 240 days or order or record of appointment for that period was produced by the workman. On this ground alone, the claim is liable to be set aside."* Therefore, the burden of proof that he has completed 240 days in a continuous period of 12 calendar months is upon the Petitioner. But, in this case, even though the Petitioner has produced more than thirty documents, he has not established this fact with any satisfactory evidence. In these circumstances, it cannot be said that the Respondent has not followed the provisions under Section 25F of the I,D.

12. As against this, learned counsel for the Petitioner contended that the Petitioner had been engaged regularly from the year 1982; however, with deliberate breaks and the Respondent/Bank decided to absorb all those temporary messengers who have completed 90 days of service as on 3-10-84 and for that purpose, the Respondent had interviewed all the temporary emplolyees including the Petitioner during the year 1985, but for the reasons best known to the Petitioner, the Petitioner has not been selected in the interview, However, the Petitioner was continued to be employed by the Respondent as a temporary messenger. Since the Petitioner had been working continuously with artificial breaks, the weekly holidays, national holidays and other declared holidays by the Respondent/Bank have to be taken into account for calculating the total number of days worked by the Petitioner in each year. Further, the action of the Respondent in engaging temporary messenger for years together namely from the year 1992 to 1998 and when the work discharged by him is perennial in nature, only with the sole intention to deprive the status and privilege of permanent workman, the Respondent has retrenched the Petitioner from service, which amounts to unfair labour practice under clause 10 Part-I of V Schedule to I.D.Act. Further, whenever the Petitioner requested the Respondent/Bank to regularise his service, the Respondent/Bank promised to do so shortly, but contrary to their promise the Respondent refused to give employment to the Petitioner. The Petitioner who was working nearly for sixteen years, therefore, the termination of the Petitioner is illegal. The Petitioner has worked for more than 240 days in Park Town branch and Sowcarpet branch in the year 1998 and therefore, the order of termination passed without complying with the mandatory provisions of Section 25F of the I.D.Act, is illegal and therefore, this Tribunal has to order reinstatement of the Petitioner with all other consequential benefits.

13. But, again the learned counsel for the Respondent contended that though the Petitioner has contended that

he has completed more than 240 days of continuous service in a block of 12. calendar months in the year 1998, he has not produced any document to substantiate his claim. Further, admittedly, the Petitioner was not appointed to the post in accordance with the rules but was engaged on the basis of need of work. It is admitted that the Petitioner was a temporary employee working on daily wages and under such circumstances, his disengagement from service cannot be construed to be retrenchment under I.D. Act and he also relied on the rulings reported in AIR 1997 SC 3657 HIMANSHU KUMAR VIDYARTHI VS. STATE OF BIHAR wherein the Supreme Court has held that *"admittedly they were not appointed to the post in accordance with rules, but were engaged on the basis of need of work, they are temporary employees working on daily wages and their disengagement from cannot be construed as retrenchment under the I.D. Act. The concept of retrenchment therefore, cannot be stretched to such an extent as to cover these employees."* He further argued that no doubt, the Respondent/Bank was engaging the temporary employees due to business exigencies and on account of urgent need which resulted in hundreds of employees were engaged, even though there were no permanent vacancies. Such temporary employees were claiming absorption and when their cause was espoused by the State Bank of India Staff Federation, the Respondent/ Bank entered into five settlements, which were also the subject matter of conciliation proceedings and the minutes of settlements were also drawn under section 18(3) of the I.D.Act and as per settlement dated 17-11-87, temporary employees were categorised as A, B and C and considering their temporary service from 1-7-75 to 31-12-87 and subject to other eligibility criteria, under category A, the temporary employees who were engaged 240 days were to be considered, under category B, the temporary employees who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months and under Category C, the temporary employees who have completed 30 days aggregate temporary service in any calendar year after 1-7-75 or minimum 70 days aggregate temporary service in any continuous block of 36 calendar months were to be considered and as per clause 7 of the settlement, the length of temporary service was to be considered for the seniority in the wait list. It was also agreed to for the wait list which has lapsed on December, 1991, the cut off date was extended upto 31-3-97 for filling up vacancies which were to arise upto 31-12-94 by subsequent settlements. In this case, though the Petitioner has alleged that he has completed 240 days of continuous service, he has not established this fact with any satisfactory' evidence, but further, it is admitted by the Petitioner in the cross examination that he has not been in the wait list. Under such circumstances, he cannot'claim any relief in this dispute.

14. But, as against this, the learned counsel for the Petitioner contended that he is not aware of the settlements dated 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 alleged to have been entered into between the Respondent/Bank and Staff Federation. In any event, the Petitioner is not a party to the said settlement and therefore, they will not be binding on him and the wait list referred to by the Respondent/Management has no application to the Petitioner's case.

15. But, though the Petitioner alleged that he has no knowledge about the settlement, subsequently, in the cross examination, he has admitted that he has knowledge about the settlements and in one stage, he has admitted that only as per settlement Ex.M1, he has been engaged by the Respondent/Bank subsequent to the year 1989.

16. At this stage, learned counsel for the Respondent relied on the decision reported in JT 1996 8 SCC 707 KCP LTD. Vs. PRESIDING OFFICER AND OTHERS wherein the Supreme Court has held that *"section 2(p) of the Act defines a settlement means a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and workmen arrive at otherwise than in the course of conciliation proceedings where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate govt. and the conciliation officer. It is also not in dispute that parties to the settlement were the appellant company on the one hand and Respondent No.2 union on the other, which acted on behalf of all the 29 dismissed workmen for whom reference was pending in Labour Court. It was duly signed by both these parties. Under such circumstances Respondent No.3 to 14 also would be ordinarily bound by this settlement entered into by their representative union with the company unless it is shown that the said settlement was ex-facie, unfair, unjust and mala fide. No such case could be even alleged much less made out by the disstenting Respondents before the trial Court."* Learned counsel for the Petitioner relying on these decisions argued that though the Petitioner is not a party to the settlement, the State Bank of India Staff Federation entered into settlements with the Respondent/ Bank only to regularise the temporary employees like the Petitioner and in such circumstances, it cannot be said that these settlements are ex-facie, unfair, unjust and malafide. Further, it is admitted by the Petitioner that he has not been included in the wait list as per terms and conditions and under such circumstances, he cannot claim any benefit either under settlements or under I.D. Act, since he has not established before this Tribunal that he has completed more than 240 days in a continuous period of 12 calendar months prior to his termination.

17. I find much force in the contention of the learned counsel for the Respondent. In this case, though the Petitioner has produced 30 documents, he has not established the fact that he has worked for more than 240 days in a continuous period of 12 calendar months and since the burden of proof that he has worked for more

than 240 days is upon the Petitinoer and since the Petitioner has not established this fact with any satisfactory evidence, I find the Petitioner is not entitled to any relief in this dispute. Therefore, I find this point in favour of the Respondent/ Bank.

Point No. 2:

The next point to be decided in this case is to what relief the Petitioner is entitled ?

18. In view of my foregoing findings that the Petitioner has not established the fact that he has completed more than 240 days in a continuous period of 12 calendar months, I find the Petitioner is not entitled to any relief. No Costs.

19. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th March, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party / Petitioner : WW1 Sri S. Nagarajan

For the II Party/Management : MW1 Sri C. Mariappan

Documents Marked:

For the I Party /Petitioner:

Ex.No.	Date	Description
WI	25-01-83	Xerox copy of the service certificate issued by Respondent
W2	10-09-84	Xerox copy of the service certificate issued by Respondent
W3	11-02-85	Xerox copy of the letter from Respondent Regional Office To Soucarpet branch
W4	14-02-85	Xerox copy of the letter from Respondent to Petitioner
W5	25-02-85	Xerox copy of the service certificate issued by Respondent
W6	Nil	Xerox copy of the service certificate issued by Respondent
W7	11-07-89	Xerox copy of the call letter from Respondent to Petitioner
W8	06-03-92	Xerox copy of the letter from Petitioner to T. Nagar Branch Manager
W9	28-11-02	Xerox copy of the letter from Deputy General Manager To Assistant General Manager of Respondent/Bank
WI0	Nil	Xerox copy of the reference book on staff matters Guidelines for temporary employees in subordinate cadre
WI1	Nil	Xerox copy of the reference book on staff matters Guidelines for temporary employees in subordinate cadre Upto 1993
W12	Nil	Xerox copy of the reference book on staff matters Guidelines for temporary employees in subordinate cadre Upto 1995
W13	20-04-88	Xerox copy of the circular of Respondent regarding waitlist
W14	Nil	Xerox copy of the paper publication in daily thanthi
W15	24-04-91	Xerox copy of the circular of Respondent regarding Absorption of temporary employees
WI6	01-05-91	Xerox copy of the paper publication in Hindu
W17	28-08-91	Xerox copy of the paper publication in Hindu
W18	15-03-97	Xerox copy of the letter regarding sanction of massenger Vacancies in 1995-96 panel of wait list candidates
W19	25-03-97	Xerox copy of the regarding ID raised by staff federation
W20	Nil	Xerox copy of the reference book on staff matter Vol. II

For the II Party/Management:

Ex. No.	Date	Description
M I	09-11-00	Xerox copy of the settlement between Federation and Respondent/ Management
M2	16-07-88	Xerox copy of the settlement betweenFederation and Respondent/ Management
M3	27-10-88	Xerox copy of the settlement between Federation and Respondent/ Management
M4	09-01-91	Xerox copy of the settlement between Federation and Respondent/ Management
M5	30-07-96	Xerox copy of the settlement between Federation and Respondent/Management M6 09-06-95 Xerox copy of the minutes of conciliation proceedings
M7	28-05-91	Xerox copy of the order in WP No. 7821/94
M8	15-05-90	Xerox copy of the order in O.p.No.2787/97 M9 10-07-99 Xerox copy of the order in SLP No. 3082/99
M10	Nil	Xerox copy of the wait list of Chennai module

नई दिल्ली, 30 मई, 2006

का.आ. 2411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई-377/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-06 को प्राप्त हुआ था।

[सं. एल- 12012/6/2004 -आई आर (बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 30th May, 2006

S.O. 2411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID-377/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 30-5-2006.

[No. L-12012/6/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COUT CHENNAI

Friday, the 17th March, 2006

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 377/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1974 (14 of 1974), between the Management of State Bank of India and their workman)

BETWEEN

Sri. S. Sundararajan	:	I Party/Petitioner

AND

The Chief Manager (Per), State Bank of India, ZO., ennai.	:	II Party/Management

APPEARANCE:

For the Workman	:	M/s. Balan Haridas & R. Kamatchi Sundaresan, Advocates
For the Management	:	M/s. K. S. Sundar, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/6/2004-IR(B-I) dated 21-06-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

"Whether the action of the management of State Bank of India in depriving employment to Shri S. Sundararajan is justified? If not, to what relief is he entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 377/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Clairn Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was engaged as temporary messenger in the T. Nagar branch of the Respondent/Bank during the year 1982. He was engaged against the regular post of massenger. The Petitioner had been engaged regularly, however, with deliberate breaks. The Respondent/ Management has called for interview all these temporary messengers, who had completed 90 days of service as on 31-10-1984. The Petitioner has also attended the interview but instead of regularising his service, the Respondent had continued to engage the Petitioner as a temporary massenger. Thus, he has worked as temporary messenger in the Respondent/Bank's various branches in Chennai. The work discharged by him and the permanent massengers were dentical. Only to deprive the status and privilege of permanent workmen, the Respondent has made unfair labour practice. whenever the Petitioner requested the Respondent/Bank to regularise his services, the Respondent/Bank promised to do so shortly. But, contrary to their promise, the Respondent/Bank not only refused to make him permanent but refused to give employment to the Petitioner from December, 1997. Further, the Respondent has also retained many of the Juniors of the Petitioner and their services have been regularised which is in violation of Section 25G, 25H of the I. D. Act. The Petitioner has worked for more than 240 days in a continuous period of 12 calendar months more particularly, in the year 1997. While calculating 240 days the festival holidays, national holidays and other weekly holidays have to be taken into account. Further, without complying with the mandatory provisions of Section 25F of the I. D. Act, the Respondent had terminated the services of the Petitioner from December, 1997, therefore, such termination amounts to retrenchment. Therefore, the action taken by the Respondent is illegal, arbitrary and in violation of Section 25F, 25G and 25H of the I. D. Act. Therefore, the Petitioner is entitled to be reinstatement as permanent messenger from the date of his appointment and also prays countinuity of service back wages and all other attendant benefits.

4. As against this, Respondent in its Counter Statement contended that the reference made by the Government of India, Ministry of Labour for adjudication by this Tribunal itself is not maintainable. The Petitioner was not in cotinuous service, hence the question of regular absorption/appointment does not arise at all. The Petitioner is estopped from making a claim as per Claim Statement, as he had accepted the settlements drawn under the provisions of Section 18 (1) and 18 (3) of I. D. Act. The Petitioner concealed the material facts that he was waitlisted as per his length of his engagement and could not be absorbed as he was positioned lower down in seniority. The Respondent/Bank was engaged the temporary employees due to business exigencies and on account of urgent needs. When such employees claimed permanent absorption and when their cases were espoused by State Bank of India Staff Federation, the Respondent/Bank entered into five settlements with the federation on 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 and the above said settlements become the subject matter of conciliation proceedings and minutes of settlements were drawn under Section 18 (3) of I. D. Act. In terms of the settlement, the Petitioner was considered for permanent appointment as per his eligibility along with the similarly placed other temporary employees. The Petitioner waitlisted at S. No. 744 in the waitlist of Zonal Office, Chennai and so far 357 waitlisted temporary employees out of 744 waitlist temporary employees were permanently appointed in the bank. The Petitioner was engaged only in leave vacancy and as per settlement dated 17-11-87. Temporary employees were categorised as A, B and C and as per clause 7, the length of temporary service was to be considered for the seniority in the wait list. The wait list which was to lapse on December, 1991 and the cut off date was extended upto 31-3-97 for filling up vacancies which were to arise upto 31-12-94. It is false to allege that the Petitioner has worked for 240 days in a continuous block of 12 calendar months. Therefore, the Petitioner has no valid and enforceable right for appointment. This Respondent had implemented VRS and even the permanent sactioned vacancies stand substantially reduced. The settlement entered into were bonafide which were only workable solution and is binding on the Petitioner. The Petitioner accepted the settlements and accordingly he was waitlisted as candidate at S. No. 744. Therefore, the Petitioner is estopped from questioning the settlement directly or indirectly and his claim is liable to be rejected. Since this Respondent is not an industrial establishment, Chapter V B of I. D. Act does not apply to Respondent/Bank. The Petitioner was engaged for more number of days in the year 1997, only because he was waitlisted as candidate No. 744, it cannot be said that the action of Respondent amounts to unfair labour practice. Since there was no retrenchment, the question of complying with provision of Section 25F does not arise at all. Lapse of wait list was approved by the High Court of Orissa and the Hon'ble Supreme Court had confirmed the same by its order. After the expiry of wait list, the Petitioner has no claim for permanent absorption/appointment and hence, his claim petition is liable to be dismissed. Hence, for all these reasons, the Respondent prays to dismiss the claim with costs.

5. Again, the Petitioner filed a rejoinder in which he alleged that the Petitioner was not a party to the settlements dated 17-11-87, 16-7-88, 9-1-91 and 9-6-95 alleged to have been entered with State Bank of India Staff Federation. In any event, the Petitioner is not a party to the above settlements and the same will not be binding on him. Further, at no point of time, the Petitioner was put on notice about settlements. It is false to allege that the Petitioner worked only on temporary basis in leave vacancies. Even when the alleged settlements were in existence, the Respondent engaged the Petitioner as temporary messenger. Therefore, the relevance placed on the settlement dated 17-11-87 is of no consequence. Hence, he prays that an award may be passed in his favour.

6. Than again, the Respondent filed an additional Counter Statement with the leave of the Court in which it is alleged that the Petitioner is a daily wager and a casual employee and hence he was not waitlisted along with other eligible temporary employees. As per settlements dated 7-10-88 and 9-1-91 the claim of daily wagers like Petitioner can be considered only after appointing all the eligible temporary employees against the enumerated vacancies. Since 357 temporary employees were appointed and thereafter the wait list lapsed, the claim of the Petitioner was not considered. Hence, the Respondent prays that the claim my be dismissed with costs.

7. Then again, the Petitioner filed additional rejoinder wherein it is alleged that he was engaged as messenger in the year 1982 in a regular post and he was paid wages on monthly basis for every month, but the Respondent has given deliberate breaks with a sole intention to over reach the law. Apart from working as messenger, the Petitioner worked on petty cash basis. Hence, he prays that an award may be passed in his favour.

8. In these circumstances, the points for my consideration are :—

(i) "Whether the action of the Respondent Management in depriving employment to the Petitioner Sri. S. Sundararajan is justified?"

(ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

9. The Petitioner in this case alleged in this dispute that he has been engaged as a temporary messenger by the Respondent/Bank in T. Nagar branch during the year 1982 and he was engaged regularly, however, with

deliberate breaks and when the Respondent/Bank announced the scheme to absorb all the temporary messengers who had completed 90 days of service as on 31-10-84, he was also eligible for the said category and he has attended the interview. But, he has not been selected for the reasons best known to the Respondent. But, even after that he was continuously engaged by the Respondent/Bank as temporary messenger and he has worked as temporary messenger in the Respondent/Bank in various branches at Chennai. He had been working continuously with artificial breaks and he has completed 240 days in a continuous period of 12 calendar months before the retrenchment i.e. during December, 1997. But, without complying with the provisions of Section 25F of the I.D.Act, the Respondent/Bank retrenched him and terminated his service, which is illegal, arbitrary, *void ab initio*. Further, the Petitioner has worked as temporary messenger and also worked on petty cash in various branches as messenger and therefore, he prays for reinstatement as messenger on permanent basis with continuity of service, back wages and other attendant benefits. The Petitioner has examined himself as WW1 and marked Ex.W1 to W30. Ex. W1 is the copy of certificate issued by Respondent/Bank at T.Nagar branch on 9-8-92 that the Petitioner has worked as substitute messenger on temporary basis for 89 days between 15-2-82 and 28-6-82. Ex. W7 is the copy of certificate issued by Respondent/Bank branch at Purasawalkam to the effect that he has worked from 19-4-95 to 3-5-95. Ex.W8 is the copy of certificate issued by Respondent/Bank branch at Ambattur Industrial Estate to the effect that the Petitioner has worked as temporary messenger for 27 days from 26-7-85 to 19-9-85 and Ex.W9 is the copy of certificate issued by Respondent/Bank Branch at Anna Salai to the effect that he has worked from 23-12-85 to 6-3-86 for 21 days and Ex.W15 to W17 are the copies of certificates issued by Respondent/Bank at Nandanam, Saidapet and Ashok Nagar branches to the effect that the Petitioner has worked for 6 days from 4-3-96 to 11-3-96 and 29 days from 2-4-96 to 30-4-96 at Saidapet Bazar Branch and for 178 days from 18-5-96 to 12-11-96 at Ashok Nagar Branch.

10. As against this, the Respondent contended that no doubt, the Petitioner has worked as temporary messenger in its various branches at Chennai. He has worked only as a messenger on leave vacancies and he has not worked in permanent vacancy. Further, the Respondent/Bank was engaging temporary employees due to business exigencies and on account of urgent needs and such engagement was prevailed from the year 1970 onwards. Eventhough there were no permanent vacancies, these temporary employees were engaged due to business exigencies and when such temporary employees were claiming permanent absorption, their cause was espoused by the State Bank of India Staff Federation, the Respondent/Bank entered into five settlements dated 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 with the staff federation and the above said settlement became the subject matter of conciliation proceedings and minutes of settlements were drawn under section 18(3) of I.D. Act and as per the 1st settlement, temporary employees were categorised as A, B and C considering their temporary service from 1-7-75 to 31-12-87 Under A category, the temporary employees who were engaged for 240 days were to be considered and under category B temporary employees who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months and under Category C the temporary employees who have completed 30 days aggregate temporary service in any calendar year after 1-7-75 of minimum 70 days aggregate temporary service in any continuous block of 36 calendar months were to be considered. As per clause 7, the length of temporary service was to be considered for seniority in the waitlist. Thereafter, it was agreed that waitlist which was to lapse on December, 1991 and cut off date was extended upto 31-3-97 for filling up vacancies which were to arise upto 31-12-94. Even though the Petitioner alleged that he has completed 240 days in a continuous period of 12 calendar months, he has not stated he has been wait listed under the above settlement. From this, it is clear that he has not completed 240 days in a continuous period of 12 months. On behalf of the Respondent one Mr. Mariappan was examined as MW1 and on their side 10 documents were marked as Ex. M1 to M10.

11. Learned counsel for the Petitioner contended that though the Petitioner had been engaged as temporary messenger from 1992 to 1997 at various branches of the Respondent/Bank, the Respondent/Bank engaged him with deliberate breaks. The Petitioner had worke for more than 240 days in the year 1997 when his services were terminated in that year. Even in that year, the Respondent/Bank has given deliberate breaks with the sole intention to deny benefits under labour welfare legislations. Therefore, the festival holidays, national holidays and weekly holidays have to be taken into account while calculating 240 days period and therefore, deliberate breaks given by the Respondent/Bank have to be ignored while calculating 240 days in a continuous period of 12 calendar months. He relied on Ex. W15 to W17 which were certificates given by Respondent/Bank branches at Nandanam, Saidapet and Ashok Nagar in which it is stated that the Petitioner has worked for more than 213 days. Learned counsel for the Petitioner argued that when we include the holidays of Festival/National and other weekly holidays to this, the Petitioner must have worked for more than 265 days. Therefore, the order passed by the Respondent/Bank without following the mandatory provisions of Section 25F of the Act is illegal, arbitrary and in violation of Section 25F of the I.D. Act and therefore, the order is void *ab initio*.

12. But, as against this, learned counsel for the Respondent relied on the rulings reported in AIR 1997 SC 3657 Himanshu Kumar Vidyarthi *vs.* State of Bihar wherein the Supreme Court has held that "*admittedly they were not appointed to the post in accordance with rules, but were engaged on the basis of need of work, they are temporary employees working on daily wages and their disengagement from cannot be construed as retrenchment under the I.D. Act. The concept of retrenchment therefore, cannot be stretched to such an extent as to cover these employees.*" Therefore, in this case, even though the Petitioner alleged that he has worked for more than 240 days, this temporary appointment was only on need basis and the Supreme Court has observed that in such circumstances, the disengagement from service cannot be construed to be a retrenchment under I.D. Act and hence, it cannot be said that the Respondent/Bank has not followed the provisions of Section 25F of the I.D. Act. Further, the learned counsel for the Respondent contended that when the workman claims that he has worked for more than 240 days in a year preceding his termination, the burden of proving the same is upon the Petitioner. In this case, though the Petitioner has produced so many documents, he has not established the fact that he has worked for more than 240 days in a continuous period of 12 months. In such circumstances, he cannot take advantage of certificates alleged to have given by the Managers of Respondent/Bank branches and argued that he has completed 240 days and it cannot be contended that documents produced will prove the contention of the Petitioner as they are not sufficient evidence for proving this contention.

13. But, as against this, the learned counsel for the Petitioner contended that Petitioner is not aware of the settlements dated 17-11-87, 16-7-88, 7-10-88, 9-1-91 and 30-7-96 alleged to have been entered into between the Respondent/Bank and Staff Federation, In any event, the Petitioner is not a party to the said settlement and therefore, it will not be binding on him and the wait list referred to by the Respondent/Management has no application to the Petitioner's case. Further, even though the Respondent alleged that casual workers service can be put to an end by disengaging the temporary employees, the Respondent has entered into several settlements only to regularise the services of temporary employees and at this juncture, it cannot be heard to say that Respondent is entitled to disengage the Petitioner on the ground that he has worked only as temporary messenger and not on regular basis. Further, in this case, since the Petitioner has worked for 240 days in a continuous period of 12 months, the Petitioner's services cannot be put to an end without following the provisions under Section 25F of the I.D. Act and since there is a violation of Section 25F of the I.D. Act, the Petitioner has to be reinstated in his original service on the same terms and conditions in which he was working earlier and in such circumstances, the Petitioner is entitled to the relief as prayed for.

14. Though in this case, so many documents were marked on either side, since the Petitioner has admitted that he was not included in the wait list and this Court need not consider with regard to settlements entered into by the Respondent/Bank with the staff Federation will be binding on the Petitioner or not. Any how, in this case, the Petitioner has established by Ex. W 15 to W 17 that he has worked for 213 days and if we take into account the weekly/national holidays and other holidays declared by the Respondent/Bank, I find the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months during the year 1996. As such, I find since the Respondent/Bank, which has not followed the mandatory provisions of Section 25F of the Act, the termination of the services of Petitioner is not valid in law. Since there is a violation of mandatory provisions, I find the Petitioner is to be reinstated in his original service on the same terms and conditions in which he was working earlier. As such, I find this point that action of the Respondent/Management in depriving the employment to Sri S.Sundararajan is not justified. Therefore, I find this point in favour of the Petitioner.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

15. In view of my foregoing findings that the action of the Respondent/Bank in depriving employment of the Petitioner is not justified, I find the Petitioner is to be reinstated in service. The Petitioner has also claimed back wages, continuity of service. In this case, the Petitioner in his evidence has stated that he has not worked anywhere else after his disengagement from Respondent/Bank and the Respondent has also not disputed this fact with any satisfactory evidence nor alleged any engagement by the Petitioner in anywhere else. In these circumstances, I find half of the back wages can be given to the Petitioner, which I think would be a justifiable one in the facts and circumstances of the case. Therefore, I direct the Respondent to reinstate the Petitioner into service as messenger and also direct the Respondent to pay half of the back wages with continuity of service and all other attendant benefits. No costs.

Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th March, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Part/Petitioner : WW1 Sri S.S.Sundararajan

For the II Party/Management: MW1 Sri C. Mariappan

Documents Marked :—

For the I Part/Petitioner:—

Ex. No.	Date	Description
W1	09-08-82	Xerox copy of the service certificate issued by Respondent.
W2	10-03-83	Xerox copy of the service certificate issued by Respondent.
W3	15-03-83	Xerox copy of the letter from Petitioner to Respondent.
W4	27-11-84	Xerox copy of the letter from Respondent to Petitioner.
W5	21-02-85	Xerox copy of the interview call letter from Respondent.
W6	21-02-85	Xerox copy of the interview call letter from Respondent.
W7	12-05-95	Xerox copy of the certificate issued to Petitioner.
W8	06-03-92	Xerox copy of the service certificate issued to Petitioner.
W9	16-06-86	Xerox copy of the service certificate issued to Petitioner.
W10	16-02-96	Xerox copy of the service certificate issued to Petitioner.
W11	19-02-96	Xerox copy of the service certificate issued to Petitioner.
W12	Nil	Xerox copy of the photograph.
W13	Nil	Xerox copy of the representation given by Petitioner.
W14	June, 1996	Xerox copy of the attendance of the Petitioner.
W15	30-01-97	Xerox copy of the service certificate issued to Petitioner.
W16	22-01-97	Xerox copy of the service certificate issued to Petitioner.
W17	Nov. 96	Xerox copy of the service certificate issued to Petitioner.
W18	18-11-02	Xerox copy of the representation given by Petitioner.
W19	28-11-02	Xerox copy of the letter from Respondent
W20	Nil	Xerox copy of the reference book on staff matters-Guidelines for temporary employees in subordinate cadre.
W21	Nil	Xerox copy of the reference book on staff matters-Guidelines for temporary employees in subordinate cadre Upto 1993.
W22	Nil	Xerox copy of the reference book on staff matters-Guidelines for temporary employees in subordinate cadre Upto 1995.
W23	20-04-88	Xerox copy of the circular of Respondent regarding waitlist.
W24	Nil	Xerox copy of the paper publication in daily thanthi.
W25	24-04-91	Xerox copy of the circular of Respondent regarding Absorption of temporary employees.
W26	10-05-91	Xerox copy of the paper publication in Hindu.
W27	28-08-91	Xerox copy of the paper publication in Hindu.
W28	15-03-97	Xerox copy of the letter regarding sanction of messenger vacancies in 1995-96 panel of wait list candidates.
W29	25-03-97	Xerox copy of the regarding ID raised by staff federation.
W30	Nil	Xerox copy of the reference books on staff matters Vol. II.

For the II Party/ Management :-

Ex. No.	Date	Description
M1	09-11-00	Xerox copy of the settlement between Federation and Respondent/ Management.
M2	16-07-88	Xerox copy of the settlement between Federation and Respondent/ Management.
M3	27-10-88	Xerox copy of the settlement between Federation and Respondent/ Management.
M4	09-01-91	Xerox copy of the settlement between Federation and Respondent/ Management.
M5	30-07-96	Xerox copy of the settlement between Federation and Respondent/ Management.
M6	09-06-95	Xerox copy of the minutes of conciliation proceedings.
M7	28-05-91	Xerox copy of the order in WP No. 7821/94.
M8	15-05-90	Xerox copy of the order in O.p. 2787/97.
M9	10-07-99	Xerox copy of the order in S.L.P. No. 3082/ 99.
M10	Nil.	Xerox copy of the wait list of Chennai module.

नई दिल्ली, 31 मई, 2006

का. आ. 2412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 554/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2006 को प्राप्त हुआ था।

[सं. एल-12012/158/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 31st May, 2006

S.O. 2412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 554/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 30-5-2006.

[No. L-12012/158/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 21st March, 2006

PRESENT: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 554/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bank of Baroda and their workmen)

BETWEEN

*Sri A. Shanmugam : I Party/Workman
C/o. Bank of Baroda
Workmen Union

[*As amended vide Ministry's corrigendum dtd. 8-9-2004]

AND

The Assistant General Manager, : II Party/Management
Bank of Baroda, Zonal Office,
Chennai.

APPEARANCE:

For the Workman : M/s. Aiyar & Dolia, Advocates

For the Management : Mr. K.S.V. Prasad, Advocate

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-12012/158/2001-IR (B-II) dated 13/16-02-2001 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in that order is :

> "Whether the action of the management of Bank of Baroda in terminating the service of the workman Sri A. Shanmugam is justified? If not, to what relief is he entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 554/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:—

The Petitioner Union espouses the cause of the concerned workman Shri A. Shanmugam who was working as Head Cashier category 'E' in the Erode branch of the Respondent/Bank at Perundurai branch. The concerned employee was charge sheeted on 12-12-1997 after suspension on 13-8-97 for having committed certain lapses. The first allegation is that he has received remittance from M/s. Supreme Poultry Pvt. Ltd. but had given credit to the account after inordinate delay. Secondly, he has received remittance from the same party but had not credited the amount to the party's account. Thirdly, instead of keeping the cut notes received from the party in a separate tray and sending the same to currency chest for Collection, he had kept the amount in his drawer and misutilised the bank's funds and hence he was charged under para 19.5(d) and 19.7(d) of Bipartite Settlement. No explanation was called for from him. Even though he did not admit the charges, he was not given copies of the entire documents relied on by the management. Though the Presenting Officer has conveyed the Enquiry Officer that he is going to examine three witnesses, the witnesses have not been examined. Further, no document was produced in evidence except the Presenting Officer gave him eight documents which are marked as MEs 1 to 7 and ME 12. The Enquiry Officer arbitrarily came to the conclusion even without holding an enquiry in spite of the fact that he did not plead guilty, holding that all the charges have been proved. After the proposed punishment, the Disciplinary Authority punished him with discharge from bank service with superannuation benefits. Therefore, the enquiry is vitiated. There is nothing on record to show that there are laid down procedures in the bank to account for cut notes and soiled notes immediately on their receipt or within a stipulated period of time. Further, the relevant registers allegedly maintained in the branch as per the conclusion of Enquiry Officer and the Appellate Authority had not been produced in the enquiry. The concerned employee has put in 20 years of unblemised record of service which has not been taken

into account by the Disciplinary Authority. No complaint was produced before the enquiry and the Enquiry Officer has laid down the letter addressed by M/s. Supreme Poultry Pvt. Ltd. Though the Enquiry Officer has stated that the concerned employee has admitted the guilty, the document was taken from the workman in a threatening atmosphere. If he did not accept that he utilised the cut and soiled notes, it was threatened that he will be put in jail by the police. The charge itself speaks about cash received by him which was not proved in the enquiry. Further, the punishment of discharge from the bank service with superannuation benefits is not one of the punishments listed in para 21(iv) of Memorandum of Settlement. Further, the Respondent/Bank cannot discharge the concerned employee retrospectively as from the date of order of discharge. Hence, for all these reasons, the Petitioner prays that an award may be passed holding that the action of the Respondent/Management in terminating the services of concerned employee is not justified and to hold that the concerned employee is entitled to the relief of reinstatement, continuity of service with full back wages and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner Union has no *locus standi* to espouse the cause of the concerned employee Sri A. Shanmugam as he was in a branch which was in old Periyar and present Erode District. The members of the staff of branches in old Periyar district were not the members of the Petitioner Union. The concerned employee soon after passing the order of Appellate Authority has applied for and received his retiral benefits without any protest. Hence, he is estopped from raising any dispute relating to his discharge from service. The concerned employee while he was in Erode branch used to receive remittances of such notes from customers directly describing them as cut notes received from customers directly as though he was rendering a service to them instead of asking them to follow the procedure of the bank. Later he used to retain the amount for a long time and give credit to those amounts after inordinate delay running into several months/years. One M/s. Supreme Poultry Pvt. Ltd. is a valuable customer of the Respondent/Bank at Perunthurai branch. Remittances of cut notes received from the party should be kept in a separate tray and should have been sent to the currency chest branch for collection, instead the concerned employee kept them in his drawer and he has misutilised these remittances. At the time of verification, a sum of Rs. 1,24,068 was not credited to the account of the said customer. Further it was not available as cut notes in his drawer either. All these facts came to light when a complaint letter was received on 30-8-97 from the customer M/s. Supreme Poultry Pvt. Ltd. and a charge sheet was issued on 12-12-97. The concerned employee has not submitted his explanation. However, on 23-2-98 in the preliminary enquiry, the deliquent employee did not admit the charges and he did not submit any explanation either. The Presenting Officer produced and marked exhibits MEs 1 to 7 and 12 and the Presenting Officer could not produce original of exhibits MEs 8 to 11 as they were cash exhibits in the custody of Erode branch. He also wished to produce and examine three witnesses. The delinquent did not object to the marking of exhibits, but wanted time till 10-3-98. On 11-3-98 at the very outset, the defence representative stated that he did not want to contest the case and that the concerned employee Sri A. Shanmugan would give a detailed statement. In his detailed statement, the concerned employee has admitted that he has received cut and soil notes directly and he kept them in his drawer and he would keep them separately and as and when time permits, he would try to sort them out and exchange them slowly and he also admitted that good notes deposited by customers could be again put in circulation in the market. Then the defence representative has also submitted certain points with regard to the action of the concerned employee. After analysing the statement of concerned employee and also submission of defence representative, the Enquiry Officer submitted his report that the charges have been proved. The Disciplinary Authority by his order dated 19-3-98 furnished a copy of the report submitted by Enquiry Officer to concerned employee for his submission. On 7-4-98 the concerned employee by his letter prayed for treating his case sympathetically and to take a lenient view. After giving personal hearing, the Disciplinary Authority has passed final order on 30-11-98 giving the punishment of discharge from bank's service with superannuation benefits. Against that order, the concerned employee preferred an appeal and, which was also rightly rejected by the Appellate Authority. Even before the Appellate Authority he pleaded for taking lenient view considering his past track record and family circumstances. After a long lapse of time of the final order passed by the Appellate Authority, the concerned employee preferred this dispute which ought to have been rejected as stale. It is incorrect to state that no enquiry was held. The concerned employee has not objected for marking of exhibits and he has not stated anything about the procedures followed in domestic enquiry. No doubt, three witnesses listed in charge sheet were not examined, because the concerned employee had admitted the facts relating to the issues involved. Further, the relevant registers were not produced due to his own admission. The past record of the concerned employee was considered, but it is of no avail against the delinquency being in the nature of serious misconduct. Even though there is no complaint, it is sufficient if a letter of the customer with regard to the fact of delinquency. The concerned employee being a trained and experienced cashier is aware of rules. Through his letter, it is clearly established that the concerned employee has accepted the soil notes on collection basis but failed to credit the amount in customer's account. Further, there was a delay in crediting the customer's account for the cut/soiled/mutilated notes received by him and it was not inconformity with the bank's

laid down procedure. The cashier cannot be the competent authority for exchange of cut notes, as per the guidelines of the bank, only the Branch Manager or identified officer is the competent authority in this regard. Generally receiving cash and making payment are not supervised item by item by the Joint Manager or Branch Manager. Therefore, cashiers are supposed to follow the bank's guidelines regarding the functioning of the cash department during the business hours. Further, the acts committed by concerned employee cannot be said to have been done in the interests of customer service and he has no authority to receive the cut notes from customers on collection basis and keep the same in his drawer without properly accounting for it. The letter was given by the concerned employee on his own volition accepted having committed the irregularities and mis-utilised the amount and he has also agreed to pay back the amount. Therefore, it cannot be treated as a letter written under coercion. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In the additional Counter Statement, the Respondent alleged that concerned employee has waived his right to raise the issue relating to legality or nature of punishment and he is estopped from raising them now after receiving his terminal benefits.The contention of the concerned employee that the management can impose only those type of punishments mentioned in Bipartite Settlement is misconceived. There is no provision in the Bipartite Settlement restricting the management's right to impose punishment to only those specified in Bipartite Settlement. The punishment is not with retrospective effect as wrongly and vaguely contended. Hence, the Respondent prays that the claim may be dismissed with costs.

6. In these circumstances, the points for my determination are :

(i) "Whether the action of the Respondent/ Management in terminating the services of workman Sri A. Shanmugam is justified ?

(ii) To what relief the Petitioner is entitled?"

Point No. 1:

7. The case of the Petitioner in this dispute is that he was appointed as Head Cashier of E category in the Erode branch and while he was serving as such, he was suspended on 13-8-97 and charge sheeted on 12-12-97 for committing irregularities and they alleged that the Petitioner received remittances from M/s. Supreme Poultry Pvt. Ltd. but has given credit to the account after inordinate delay; secondly, the Petitioner has received remittance from the same party but had not credited the amount to the party's account; thirdly, instead of keeping the cut notes received from the party in a separate tray and sending the same to currency chest for collection, he had kept the amount in his drawer and fourthly he had misutilised the bank's funds. For this, charge sheet has been issued and since the Petitioner has not given any explanation, an enquiry was ordered to be conducted. In that he did not admit the charges and therefore, an enquiry was ordered. On the side of the Respondent when the matter was posted for enquiry on 11-3-98, the Petitioner submitted to the Enquiry Officer his version stating inter-alia that he has accepted large amounts of cut and soil notes with the knowledge of the officer in the branch and they were kept separately in his drawer, so that such notes could be listed during his spare time at the counter for passing on to the currency chest and he had no intention to cheat the bank or customer. Since the Petitioner admitted that the money has been misutilised, the Enquiry Officer has submitted his report and the Disciplinary Authority after following the procedure has imposed the punishment of dismissal charge. The Petitioner contended that enquiry was not held in a just and proper way and no opportunity was given to him to contest the case. Both sides argued on the preliminary issue with regard to conduct of enquiry and this Tribunal has come to the conclusion that the enquiry was not held in a just and proper manner and on coming to that conclusion, opportunity was given to the Respondent to establish the charge framed against the Petitioner before this Tribunal. Accordingly, the Respondent has adduced evidence and produced documents. As against this, the Petitioner examined one witness. On the side of the Respondent 50 documents were marked as Ex. M1 to M50 and one Mr. G.S. Jagdish was examined as MW1. On the side of the Petitioner one Mr. K. Raman was examined and three documents were marked as Ex.W1 to W3.

8. On behalf of the Petitioner, it is contended that there is nothing on record to show that there are laid down procedures in the bank to account for cut notes and soiled notes immediately on their receipt or within a period of stipulated time. It was only a presumption that the Petitioner gave credit to the account of M/s. Supreme Poultry Pvt. Ltd. after an inordinate delay and that he was keeping the soiled notes and cut notes in his custody which fact was known to the Manager of the branch. Even though Ex. M1 was marked, it was not a complaint and it is only a request of the customer to credit the said amount in their account. It is further contended that even though the Respondent/ Management has alleged that the Petitioner has given a confession on 30-8-97 under Ex.M26, the alleged admission of the workman was taken in tensed atmosphere and it was not a confession but it was only a statement of facts before the Respondent/Management and therefore, it is not valid.

9. As against this, the Respondent/Management contended that there is a procedure to handle the cut and soiled notes and since the Petitioner has worked as Head Cashier and he has long experience as cashier, he must have known the procedure laid down by the Respondent/ Bank. On the other hand, the Petitioner has received the cut and soiled notes directly from the customers and

instead of asking the customer to follow the bank's procedure he received directly the said cut and soiled notes and retained the same for a long time with himself and has given credit after inordinate delay. Further, as per the procedure such cut and soiled notes should have been kept in a separate tray and should have been sent to currency chest. On the other hand, he has kept the said amount with him without the knowledge of the officer of Respondent/Bank and he has not given credit of the amount to the account holder's account and therefore, the customer M/ s. Supreme Poultry Pvt. Ltd. has given a letter stating that their remittances were not credited and after due enquiry and verification of records, it was found that a sum of Rs. 1,24,068 tendered by the customer M/s. Supreme Poultry Pvt. Ltd. was not given credit to the account of the said customer. Further, it was found that the said amount was also not available as cut notes in the Petitioner's drawer as alleged by him. It was also found that some of the cut notes which have been properly identified were circulated to the market and therefore, after verification, he gave the letter on 30-8-97 admitting his guilt and only because of that he was suspended and a charge sheet was issued to him and since he has not submitted his explanation, the Enquiry Officer conducted enquiry. When the matter was adjourned to 11-3-98, the defence representative WW1 in this case has stated that he did not want to contest the case and detailed statement would be given by the Petitioner. Thereafter the Petitioner has given oral statement which was recorded by the Enquiry Officer which contained several admissions. Only after that the Enquiry Officer has submitted his report and the Disciplinary Authority by his order dated 30-11-98 confirmed the proposed punishment of discharge from service. Even after that the Petitioner has filed an appeal against the order of Disciplinary Authority and the Appellate Authority after considering the matter on merits dismissed the appeal. After that the Petitioner has accepted his retiral benefits without any protest, thereby accepted his discharge from service and only as an afterthought he belatedly raised this industrial dispute.

10. But, as against this, learned counsel for the Petitioner contended that though it is alleged by the Respondent that cut and soiled notes are usually sent to currency chest at Perundurai or to Reserve Bank of India for exchange. The Respondent/Management has not established that this procedure was followed in each and every time of receiving the cut and soiled notes by the bank. Even though MW1 who was examined on the side of the Respondent has stated that this procedure was followed in all the branches of the Respondent/Bank but there is no substantial evidence to prove that such cut and soiled notes was sent to currency chest at Perundurai or RBI for exchange. Had the soiled notes been ever or at any time sent by the Erode branch to RBI, or currency chest, the Respondent/Bank would have produced some piece of document to establish the same. Further, there is enough evidence in this case that this procedure was not followed in the branch. Further, the Petitioner was keeping soiled and cut notes in his custody, which was known to the Branch officers. Though the Respondent produced Ex. M3 to M13 which are Xerox copies of counterfoils for the remittances alleged to have been made by M/ s. Supreme Poultry Pvt. Ltd. these counterfoils admittedly indicate receipt for collection but not remittance of cash to be credited into the account the same day of remittance. Further Ex. M14 to M18 are Xerox copies of receipt of cash on later dates which has not been disputed by the Respondent/Bank or M/s. Supreme Poultry Pvt. Ltd. Thus, it is clear that the Petitioner was keeping the soiled and cut notes in his custody and he has exchanged the same from private money changers and only after exchange has taken place, these amounts have been given credit to and this was known to the bank authorities and only to punish the Petitioner, they have taken this stand of alleged procedure to be followed in such case. Even in that case, if the remittance made under Ex.M14 to M18 by the currency chest or RBI for ultimate credit into the account of M/s. Supreme Poultry Pvt. Ltd. it would and can only by way of a transfer entry but not as a cash entry. But, in this case, by these vouchers only the cash entry was made. Therefore, the only possibility is that the branch was conscientiously utilizing the service of the private money changers for unofficial collection of soiled notes but not sending to RBI/currency chest for the purpose. In this case, through the Petltioner has taken I.A. for filing additional grounds with regard to private money changers, the said I.A.has not been allowed by this Tribunal thereby the Petitoner was curtailed to plead about the private money changers. But, actually in Erode Branch the cut and soiled notes were exchanged only through private money changers and even though it was prevented by the management itself, it is the usual practice in all the branches of Respondent/Bank.

11. But, on the other hand, learned counsel for the Respondent contended that though at the late stage, the Petitioner has taken the plea of exchange of notes through private money changers and through this matter was pending for more than five years before this Tribunal, only as an afterthought and only to give explanation for this misdeed, he has filed the I.A. at the belated stage while giving evidence in the year 2005 and it was rightly rejected by this Tribunal and under such circumstances, he cannot take a new plea that cut and soiled notes are exchanged through private money changers at this stage.

12. I find some force in the contention of the learned counsel for the Respondent because it is clear from the records that the Petitioner has been discharged from service in the year 1999 and only after a long lapse of time, he has raised this dispute in the year 2001 and this matter is pending for more than five years before this Tribunal and

only in the year 2005 when the preliminary issue was ordered to give an opportunity to Respondent to prove the case before this Tribunal, and only after examination of MW1, the Petitioner has taken the stand that cut and soiled notes in Erode Branch was exchanged through private money changers and he was trying to take this plea through an I.A. which was not allowed. Further, he has not given any explanation for not stating this plea when he has filed the Claim Statement and also amended Claim Statement and in such circumstances, I find this plea of exchange of cut and soiled notes through private money changers is an after thought and only to wriggle out situation, the Petitioner has taken this stand.

13. The next contention of the Petitioner is that Ex.M1 namely alleged complaint given by M/s. Supreme Poultry Pvt. Ltd. is not a complaint at all but it is only a request made by the customer to give credit to his account.

14. But, here again, I find there is no point in the contention of the learned counsel for the Petitioner that Ex.M1 is not a complaint but is only a request to give credit of amount to his account with regard to cut and soiled notes. Learned counsel for the Petitioner has not stated that there is a format for complaint. The customer can give a request that amount remitted by him has not been given credit to and he has also produced counterfoils for the said amounts. Under such circumstances, it is the look out of the management to see for what reason these amount have not been given credit to the account of the customer. Under such circumstances, it cannot be said that Ex.M1 is not a complaint and is only a request for giving credit to remittance made by M/s. Supreme Poultry Pvt. Ltd.

15. Then again, learned counsel for the Petitioner contended that none of the allegations made in the charge sheet were proved before the enquiry of before this Tribunal. Even though the 1st allegation has been made that the Petitioner has received remittances from M/s. Supreme Poultry Pvt. Ltd. but has given credit to the account after inordinate delay. It is admitted fact that cut and soiled notes were given credit to the account of M/s. Supreme Poultry Pvt. Ltd. lodgements by the branch and M/s. Supreme Polutry Pvt. Ltd. has accepted such credits as in normal course which is a fact proved from Ex.W1 in pages 10 and 14. From this also, it is clear that all the officials of the bank have known the fact that the cut and soiled notes were exchanged through private money changers and this fact is sought to be hidden from the knowledge of the Tribunal.

16. the next submission made by the learned counsel for the Petitioner is even though the Respondent/ Management produced Ex.M28 alleged to have a report of investigating officer and also Ex.M30 to M37 and M40 to M46 which are copy of enquiry proceedings and also copy of application for retiral benefits applied by the Petitioner and received by him and since this Tribunal had ordered to conduct enquiry before this Court, no reliance can be placed on these documents and in such circumstances, these documents have to be rejected as not proved anything.

17. Even though I find some force in the contention of the learned counsel for the Petitioner, on considering all the facts in this case and also evidence adduced before this Tribunal, I find there is no substance in the contention of the learned counsel for the Petitioner. The above documents are report of investigating officer, no doubt, the Respondent has not examined the investigating officer before this Tribunal, but, on the other hand only after the investigation report, the Respondent/Management has issued the suspension order and taken disciplinary action against the Petitioner. The other documents are with regard to the enquiry proceedings. Merely because this Tribunal has ordered for a trial of enquiry before this Tribunal, it cannot be said that the entire enquiry proceedings taken before the Respondent/Management is not valid and only as piece of evidence they were produced before this Tribunal by the Respondent/Management.

18. Then again, learned counsel for the Petitioner contended that it is alleged in the charge sheet that the Petitioner should have kept the soiled notes in a separate tray but it is not mentioned that this tray is to be kept in safe. It is evident from records that Petitioner has kept the soiled notes in the drawer, which is used as a tray and therefore, the said allegation in the charge sheet is not proved. Again, when the Respondent/Management has not proved that the said cut and soiled notes were sent to currency chest or RBI for exchange, at no stretch of imagination it can be said that the charges framed against the Petitioner has been proved by the Respondent/ Management. He further argued that the Respondent/ Management has not established that Petitioner has breached any rule or business of the branch. No doubt, the Petitioner has produced Ex. M39 which is alleged to have been internal instruction of the Respondent/Management regarding cut and soiled notes. But this instruction has not spoken any rule for keeping the soiled notes in the branch and it speaks generally about certain RBI instructions as to various types of notes for collection and exchange. In this case, there is no evidence before this Tribunal as to whether any register is being maintained in the branch and MW1 though alleged that there is a register for keeping the cut and soiled notes, he has not given any explanation for not producing the same before this Tribunal to establish that they have followed the procedure as given in the internal instructions under Ex.M39. Further, as mentioned in Ex.M39 it is not proved that whether any notice has been displayed at the Erode branch with regard to cut and soiled notes. This again clearly established that Erode branch of the Respondent/Bank has never followed instructions given under Ex.M39 and cut and soiled notes were only exchanged through private money changers. Learned counsel for the Petitioner further relied on the evidence given by WW1 that whenever soiled notes are

handed over to private money changers for the purpose of exchange, there cannot be any record at the branch and only because of that the Petitioner has given a statement before the Enquiry Officer and he further wanted not prolong the matter in the interest of institution which cannot be said that he has admitted the guilt of the charge. He further argued that though the Respondent alleged that the M/s. Supreme Poultry Pvt. Ltd., has made remittance it is not proved that M/s. Supreme Poultry Pvt. Ltd., has produced cash remittance and it is only related to soiled notes taken for collection but not cash to be accounted on the same day of remittance made to the account of the customer. Under such circumstances, it cannot be said that the charge framed against the Petitioner has been proved.

19. But, as against this, learned counsel for the Respondent contended that in Ex. M39 as per instructions of RBI, the branches should exhibit a notice prescribed by it regarding what types of notes that could be received and what types of notices can be sent to currency chest, in order that bank's own funds would not be blocked and the remittances should be made without loss of time and general procedures were also laid down. MW1 has also spoken about the procedures. On the other hand, in cross-examination, the Petitioner side the procedure spoken about by witness MW1 has not been stated as incorrect and only to wriggle out the situation, private money changers was sought to be introduced by the Petitioner. In this case, the Petitioner has received cut and soiled notes remitted by the customer directly without the knowledge of the officials of the Respondent/Bank. Though he had given credit to some of the cut notes received, he has given credit for these amounts with inordinate delay and had not given credit to remaining notes received by him; secondly, instead of keeping them in a separate tray, as instructed by the bank, and sending them to currency chest for collection, he had kept the amount in his personal drawer and further above all, he has misutilised these funds. He has also not informed the Senior Branch Manager of the fact that whether he has received such notes directly from the customer on 30-8-97 when the cash in his drawer was verified and he has admitted the misconduct. From the letter Ex.M1 which accompanied by counterfoils of various amounts of cut & soiled notes remitted by M/s. Supreme Poultry Pvt. Ltd. it is clearly established the total amount of currency notes received by the Petitioner as a Cashier, which also clearly establishes that without the Branch Manager's signature and without his knowledge these cut and soiled notes were received by him and from the exhibits produced by the Respondent/Management after giving credit to certain amounts, there was a balance of Rs. 1,24068 and out of this amount, Rs. 1,01,595.44 was not available either in his drawer or in the branch's currency chest. Further, there is no evidence to show that this amount was sent to Regional Currency chest at Perundurai or RBI. The Petitioner has not given any explanation for non-availability of funds to the tune of Rs. 1,01,595.44. Thus, it is clearly established that this amount has not come to bank's account or customer's account or available in the bank either in his drawer or in the safe. Thus, it is clearly established that this amount has been misappropriated by the Petitioner himself. Only because of that the Petitioner has given a letter of admission under Ex.M26. Though the Petitioner now alleged that this letter of admission was taken in a tensed atmosphere and only under threat, he has not given any notice with regard to threat of Manager or any other person immediately. Under such circumstances, this defence was also taken only to wriggle out the situtation and there is no truth in the allegation. No doubt, the Petitioner has alleged that Head Cashier E category at Erode is heavy, but it is not proved before this Tribunal. It is the evidence of MW1 that there were two cashiers under him and he had spare time to help other staff members. Under such circumstances, it is false to allege that he has no time to attend the soiled notes work immediately. Further, though it is alleged that the Petitioner has no knowledge about the circulars and internal instructions given by the Respondent/Management, he has not come before this Tribunal to speak about all these facts and there is no explanation on the side of the Petitioner for non-examination of the Petitioner. In this case, the Petitioner who had personal knowledge of all these facts had not examined himself and therefore, it cannot be contended that the Erode branch of the Responent/Bank has dealt with the cut and soiled notes only through private money changers. Learned counsel for the Respondent argued that it is to be noted that even without the knowledge of the Manager the amount was deposited to the account of the customer whenever he had money by filling up the challans himself without the initial of Accountant or signature of the customer. Thus, he has committed so many misconducts and he cannot be said as an innocent person. Even before this Tribunal, the Petitioner has not stated where he has kept the other remaining cut and soiled notes given by M/s. Supreme Poultry Pvt. Ltd. Therefore, the general presumption is that he has misutilised the funds of the customer and misappropriated the bank's money which he has received in the capacity as cashier.

20. I find much force in the contention of the learned counsel for the Respondent. In this case, though he has received the cut and soiled notes given by the customer directly, he has not entered the said receipt into bank books. Further the Customer was not given credit of this amount even in same cases, he has given credit to certain amounts that too only after a long lapse of time for which he has not given any satisfactory exaplanation. It is established before this Tribunal that a sum of Rs. 1,01,595.44 was not available either in the bank safe or in the drawer in which he alleged to have kept the cut and soiled notes and he has not given any explanation with regard to the non-availability of the said notes. Therefore, it can be safely inferred that he has utilised these funds and there was appropriation of money which belongs to the Respondent/Bank since it was received by the Petitioner in his capacity as cashier. I find it is a damage or loss to the bank and ultimately the Respondent/Bank has to give credit to these amounts. Since it is a serious misconduct, the Respondent/

Management cannot repose confidence on the Petitioner.

21. Learned counsel for the Respondent further contended that in this case at the first instance the dispute was raised by the union and the union has filed Claim Statement which was signed not by the petitioner but by the office bearer of the union. Further, there is no evidence to show that the Petitioner was a member of the union. Even in the amended Claim Statement, the Petitioner has not signed. When the matter is pending before this Tribunal, the union has taken steps to implead the Petitioner. Even after that, the Petitioner has not filed any separate Claim Statement nor adopted the Claim Statement filed by the union. It is not known who had authorised the counsel to appear on behalf of the Petitioner and he has not given any vakalat to counsel, who has appeared for the union. Therefore, the union has no right to represent him as he was not a member and the Claim Statement was not authorised by him. Under such circumstances also, this dispute is not maintainable.

22. But, though the learned counsel for the Respondent raised all these objections, at the time of arguments when the Petitioner name has been included in the reference and when the counsel for the union has represented the Petitioner, learned counsel for the Respondent has not objected to the same. Any how, for abundant caution, learned counsel for the union has filed a separate vakalat after the closing of evidence. Under such circumstances, I am not giving any finding with regard to this contention.

23. But, the learned counsel for the Petitioner, then again contended that Petitioner was charge sheeted on 12-12-1997 by the Respondent/Bank purportedly in terms of provisions of 1st Bipartite Settlement dated 19-10-1996 which has not been produced before this Tribunal, in spite of the fact the Petitioner has filed an I.A. for the same. Therefore, under such circumstances, what the Respondent meant the 1st Bipartite Settlement has not been explained by the Respondent/Bank. On this ground alone independent of the conduct of enquiry by this Tribunal, it has to be held that charge sheet issued by the Respondent/Bank is not fair and on that ground itself it can be set aside.

24. But, though the Respondent/Management has not produced the 1st Bipartite Settlement dated 19-10-1966 subsequently, they have produced one Bipartite Settlement as per the orders of this Court. But, here againt the Peititioner contended that this Bipartite Settlement is not referred to in the charge sheet and therefore, no relevance can be placed on them. But, from the records, it is not disputed that charge framed against the Petitioner is under a wrong clause or that there is no such clause at all. Under such circumstances, I find there is no point in the contention of the learned counsel for the Petitioner with regard to this contention.

25. On consideration of the entire arguments and documents produced and evidence adduced on either side, I find the action of the Respondent/Management in terminating the services of the workman is justified. Therefore, I find this point in favour of the Respondent/ Managemeat.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

26. In veiw of the above findings, I find the Petitioner is not entitled to any relief in this dispute. No Costs.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st March, 2006)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Petitioner : WW1 Sri K. Raman

For the II Party/Management : MW1 Sri G.S. Jagdis

Documents marked :—

Ex. No	Date	Description
W1	30-08-97	Xerox copy of the suspension order
W2	12-12-97	Xerox copy of the order of Respondent appointing Enquiry Officer
W3	02-11-98	Xerox copy of the order of the Disciplinary Authority
W4	13-11-98	Xerox copy of the minutes of personal hearing

For the II Party/Management :—

Ex.No.	Date	Description
M1	30-08-97	Xerox copy of the letter from M/s. Supreme Poultry Pvt. Ltd., to Respondent/Management
M2	27-08-97	Xerox copy of the details of closing balance on 27-8-97
M3	18-12-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 12500
M4	21-02-97	Xerox copy of the counterfoil bearing seal & endorsement for Rs. 11500
M5	03-04-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9771
M6	03-04-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9650
M7	03-04-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9800
M8	13-05-97	Xerox copy of the counter foil depositing Rs. 10,78[illegible]

M9	13-05-97	Xerox copy of the counter foil depositing Rs. 26,150.
M10	24-06-97	Xerox copy of the counter foil depositing Rs. 14,612.
M11	24-06-97	Xerox copy of the counter foil depositing Rs. 25,200.
M12	29-07-97	Xerox copy of the counter foil depositing Rs. 9909.
M13	29-07-97	Xerox copy of the counter foil depositing Rs. 19,000.
M14	30-04-97	Xerox copy of the challan corresponding to Rs. 12,500.
M15	13-05-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 11,500.
M16	24-06-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9771.
M17	24-06-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9650.
M18	24-06-97	Xerox copy of the counter foil bearing seal & endorsement for Rs. 9800.
M19	18-02-97	Xerox copy of the cash receipt book of cashier showing Non-receipt of remittance made on that day.
M20	21-02-97	Xerox copy of the cash receipt book of cashier showing Non-receipt of remittance made on that day.
M21	03-04-97	Xerox copy of the cash receipt book of cashier showing Non-receipt of remittance made on that day.
M22	Nil	Xerox copy of the statement of C.A. No. 7777 of Supreme Poultry P. Ltd. from 1-2-97 to 31-3-97.
M23	27-08-97	Xerox copy of the counter foil for depositing amount of Rs. 9410/- of Supreme Poultry P. Ltd found in drawer of Rs.9410.
M24	27-08-97	Xerox copy of the counter foil for depositing amount of Rs.9000/- of Supreme Poultry P.Ltd found in drawer of Petitioner.
M25	30-08-97	Xerox copy of the details of notes and coins recovered from Possession of Petitioner and signed by investigation officer.
M26	30-08-97	Xerox copy of the letter of confession from the witness to Respondent/ Management.
M27	30-08-97	Xerox copy of the order of suspension.
M28	04-09-97	Xerox copy of the report of investigating officer.
M29	12-12-97	Xerox copy of the Charge Sheet issued to Mr.Shanmugam.
M30	12-12-97	Xerox copy of the notice of appointment of Enquiry Officer.
M31	23-02-98	Xerox copy of the proceedings of Enquiry Officer.
M32	11-03-98	Xerox copy of the enquiry proceedings.
M33	11-03-98	Xerox copy of the proceedings of Enquiry Officer.
M34	Nil	Xerox copy of the report of Enquiry Officer.
M35	30-11-98	Xerox copy of the order of Disciplinary Authority.
M36	12-01-99	Xerox copy of the appeal filed by defence representative of Sri Shanmugam.
M37	13-05-99	Xerox copy of the order of Appellate Authority.
M38	26-07-86	Xerox copy of the letter from Respondent to Mr. Shanumugam regarding training as Head Cashier.
M39	Nil	Xerox copy of the internal instruction of bank dealing with Soiled notes.
M40	28-05-99	Xerox copy of the letter from Shamugam for payment of Retiral benefits.
M41	01-06-99	Xerox copy of the letter from Erode branch to Assistant General Manager of Respondent/Bank Enclosing forms of Shanmugam for P.F & gratuity.
M42	01-06-99	Xerox copy of the claim forms for P.F. from Shanmugam.
M43	01-06-99	Xerox copy of the claim forms for gratuity from Shanmugam.
M44	01-06-99	Xerox copy of the discharge form in Annexure A.
M45	17-09-99	Xerox copy of the letter from Shanmugam regarding Discharge from bank's service.
M46	08-02-00	Xerox copy of the letter from Shanmugam to PF Trustee of PF department for rectification of alleged dues.
M47	23-02-00	Xerox copy of the petition under section 2A filed before Assistant Labour Commissioner (Central).
M48	23-05-00	Xerox copy of the counter filed by Respondent/Management before Assistant Labour Commissioner (Central).
M49	29-09-00	Xerox copy of the failure of conciliation report.
M50	06-11-00	Xerox copy of the office memorandum issued by Ministry of Labour.

नई दिल्ली, 31 मई, 2006

का.आ. 2413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध I और II में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या आई डी-698/04 एवं 804/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-06 को प्राप्त हुआ था।

[सं. (1)एल-41011/31/99-आई आर(बी-I)/
सं. (2)एल-41011/25/2002-आई आर (बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 31st May, 2006

S.O. 2413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.ID-698/04 & 804/04) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexures I & II in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 31-5-2006.

[No. (1)L-41011/31/99-IR(B.-1)/
No. (2)L-41011/25/2002-IR(B.-I)]
AJAY KUMAR, Desk Officer

ANNEXURE-I

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT, AT AHMEDABAD

PRESENT

SHRI B.I. KAZI (B.Sc., L.L.M)
Presiding Officer

Industrial Dispute (Reference C.G.I.T.A.) No. 698/04
Old (I.T.C.) No. 4/2000

The Divisional Railway Manager,
Western Railway Pratapnagar,
Baroda-390004 ... First Party

V/s.

The Divisional Secretary,
Paschim Railway, Karamchari Parisahad,
Shastri Ploe, Kothi, (Gujarat)
Baroda-390001 ... Second Party

Appearance :

First Party : Shri P.K. Handa
Second Party : (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-41011/31/99-IR (B-I) dated 24-1-2000 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

"Whether the action of the management of Divisional Railway Manager, Western Railway, Baroda Division Baroda, in not refixing the pay of 3 workmen i.e. (1) Mr. Nazir, (2) Mr. J.N. Pandya (3) Raman M. working under SSE (M)ELSTRS BRCY in terms of General Manager, (E) 'S' Churchgate letter No. E(PC) 765/0 Vol. IV dated 23-05-95/08-06-95 with effect from 01-01-1986 is proper and justified? If not to what relief these, three workmen are entitled to and what other directions are necessary in the matter?"

2. The second party was issued a notice to file the statement of claim by this Tribunal on 17-1-02. The date to file the statement of claim was 4-2-2002. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 3 years 4 months from the date of reference. Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workmen failed to prove this case. Looking to the above observations I hereby pass the following order :

ORDER

The action of the management of Divisional Railway Manager, Western Railway, Baroda Division Baroda, in not re-fixing the pay of 3 workmen i.e. (1) Mr. Nazir, (2) Mr. J.N. Pandya (3) Raman M. working under SSE (M) ELSTRS BRCY in terms of General Manager, (E) 'S' Churchgate letter No. E(PC) 765/0 Vol. IV dated 23-05-95, 08-06-95 with effect from 01-01-1986 is proper and just. The concerned workmen are not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

B.I. KAZI, Presiding Officer

Dated : 17-08-05
Ahmedabad.

ANNEXURE-II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT, AT AHMEDABAD

PRESENT

SHRI B.I. KAZI (B.Sc., L.L.M)
Presiding Officer

Industrial Dispute (Reference C.G.I.T.A.) No. 804/04
Old (I.T.C.) No. 15/03

1. The General Manager,
Western Railway,
Mumbai-400001.

2. The Divisional Secretary,
Western Railway Pratapnagar,
Baroda-390004 ... First Party

V/s.

The Divisional Secretary,
Paschim Railway, Karamchari Parisahad,
Shastri Ploe, Kothi, (Gujarat)
Baroda-390001 ... Second Party

Appearance :

First Party : (Absent)
Second Party : (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-41011/25/2002-IR (B-I) dated 23-04-2003 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

"Whether the demand of the Paschim Railway Karamchari Parisahd for compassionate appointment of Shri Hurmal Meghji in place of his deceased father Shri Meghji Motta T/s. Gangman and for not granting the family pension as well as settlement of final dues in favour of the wife of late Shri Meghji Mota is proper reasonable and justified? If so what relief all the concerned workman are entitled and from which date?"

2. The second party was issued a notice to file the statement of claim by this Tribunal on 06-08-03. The date to file the statement of claim was 25-08-2003. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 2 years from the date of reference. Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order :

ORDER

The demand of the Paschim Railway Karamchari Parisahad for compassionate appointment of Shri Hurmal Meghji in place of his deceased father Shri Meghji Motta T/s. Gangman and for not granting the family pension as well as settlement of final dues in favour of the wife of late Shri Meghji Mota is proper reasonable and just. The concerned workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

B.I. KAZI, Presiding Officer

Dated : 16-08-05
Ahmedabad.

नई दिल्ली, 31 मई, 2006

का.आ. 2414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 37/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-06 को प्राप्त हुआ था।

[सं. एल- 12011/113/2005-आई आर(बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 31st May, 2006

S.O. 2414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.37/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workman, received by the Central Government on 31-5-2006.

[No. L-12011/113/2005-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT AT LUCKNOW

PRESENT

SHRI SHRI KANTA SHUKLA
Presiding Officer
I.D. NO. 37/2005
Ref. Order No. L-12011/113/2005-IR (B.II)
New Delhi Dated 23-9-2005

Between :

The Secretary,
Union Bank Employees' Association,
C/o Union Bank of India,
25, M.G. Marg, Civil Lines,
Allahabad.

&

The Asstt. General Manager,
Union Bank of India,
Nodal Regional Office,
Kapurthala Complex, Sahara India Building,
Aliganj, Lucknow-226020

AWARD

1. The Government of India, Ministry of Labour, New Delhi, has referred following schedule for adjudication to the Presiding Officer Central Government Industrial Tribunal-cum-Labour Court Lucknow under its order No. L-12011/113/2005-IR (B-II) dated 23-9-2005 :—

SCHEDULE

"Whether the action of the management of Union Bank of India in imposing the punishment of withdrawal of special allowance for the post of Head Cashier 'C' on Shri R. P. Yodua is legal and justified? If not, to what relief the concerned workman is entitled to?"

The Govt. of India, Ministry of Labour endorsed the copies of reference order to the parties with the direction that parties raising the dispute shall file a statement of claim with relevant documents, list of witnesses with the Tribunal with in 15 days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in the dispute under rule 10(B) of the Industrial Disputes (Central), Rules 1957.

Tribunal, though received the reference order on 7-10-2005, but parties did not file the statement of claim till 7-12-05, therefore Tribunal passed the order for sending the notice by Regd. Post to the Worker/Trade Union Office

Bearer fixing 20-1-06 for filing statement of claim General Secretary of the Trade Union filed application D3 seeking time to file Statement of claim, Tribunal therefore fixed 3-2-06 for filing Statement of claim but the trade union did not file any statement of claim. Tribunal thereafter ordered that the notice be sent to the opposite party for filing its written statement. Notice was sent by registered post on the Bank Management under receipt No. 92916601O dated 7-2-06. The Registered article, not received back in the Tribunal, Therefore it was presumed that service is sufficient. Sri M.R. Rahman appeared on 12-5-2006 & stated that special allowance is released but no written statement filed on behalf of Bank Management therefore 15-5-2006 was fixed for hearing. On 15-5-2006 none turned up therefore 22-5-2006 was fixed for hearing. Today i.e. on 22-5-2006 also none turned up. Therefore there is left no option/ alternative than to pass no claim award. No claim award, therefore passed accordingly.

SHRIKANT SHUKLA, Presiding Officer

Dated 22-5-2006

नई दिल्ली, 1 जून, 2006

का.आ. 2415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.कोलि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I को पंचाट (संदर्भ संख्या 65/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-06 को प्राप्त हुआ था।

[सं. एल- 20012/5/2005-आई आर(सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2005) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I as shown in the Annexure now in the Industrial Dispute between the employers in relation to the Management of BCCL and their workman, received by the Central Government on 30-5-2006.

[No. L-20012/5/2005-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, (NO. I) DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947.

Reference No. 65 of 2005

Parties : Employers in relation to the Management of Katras Areas of M/s. BCCL

&

Their Workman

PRESENT

SHRI SARJU PRASAD
Presiding Officer

For the Employers : Shri D.K. Verma, Adv.

For the Workman : None

State : Jharkhand Industry : Coal

Dated : 12-5-2006

AWARD

By order No. L-20012/5/2005/IR(C-I), dated 26-7-2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

> "Whether the demand of the Bihar Colliery Kamgar Union from the management of Ramkanaki Colliery of M/s. BCCL for regularising S/Shri Birju Bhuia and 23 others (as per list) in T.R. Job is justified? If so, to what relief are the concerned workman entitled and from what date?"

2. A petition has been filed duly signed by the Adv. of the sponsoring union to the effect that the existing dispute has been settled by the parties, outside the Tribunal and the union/concerned workman do not want to proceed further with the matter. They have prayed for passing a No dispute Award.

Since, the dispute has been settled outside the Tribunal by both the parties. Therefore, I render a NO DISPUTE AWARD.

S. PRASAD, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2416.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 39/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-06 को प्राप्त हुआ था।

[सं. एल-20012/322/1993-आई आर (सी-I)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/1995) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexures in the Industrial Dispute between the employers in relation to the Management of CCL and their workman, received by the Central Government on 31-5-2006.

[No. L-20012/322/1993-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NO. 1 DHANBAD

In the matter of a reference under section 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 39 of 1995

Parties : Employers in relation to the Management of Kathra Colliery of M/s. C. C. Ltd.

AND

Their Workman.

PRESENT

SHRI SARJU PRASAD,
Presiding Officer

Appearances :

For the Employers : Shri D.K. Verma, Advocate.

For the Workman. : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union

State : Jharkhand. Industry : Coal.

Dated : the 12th May, 2006.

AWARD

By order No. L-20012(322)/93-I.R.(Coal-I), dated 28-4-2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

> "Whether the demand of the Union for regularisation by the principal employer i.e. the management of Kathara Colliery of M/s. CCL of Shri Mahesh Mahato and 35 others (as per list enclosed) employed through the contractors is legal and justified in the light of the Supreme Court Judgement in Dinanath Case? If so, to what relief these workmen are entitled and from which date?"

2. The case of the sponsoring union is that Mahesh Mahato and 35 others whose names find place in the annexure to the terms of reference have been working since 1984 with unblemished record of service and they have been performing the jobs of erection of electric pole/wire, fixing pole for overhead line and do the electric wiring over the pole, instal cables and connect jumper underground. They were also cutting foundation for installation of pump and used to errect stone walls on both sides of the colliery. According to them, they were performing permanent nature of job within the precinct and premises of the mine under the direct control and supervision of the management and they have put in 190/240 days attendance in each calendar year. According to them, they were giving service for the benefit of the management though initially they were appointed through some intermediary contractor and as such, they are employees of the principal employer. According to them, the papers relating to engagement of contractor are all paper arrangement, camouflage and ruse to deprive the concerned workmen from their legitimate right. They were topped from duty w.e.f. 17-3-2000 without conducting any enquiry or following the principle of Sec. 25-F of the I.D. Act. the claim of the sponsoring union is for regularisation of the concerned workmen in the employment of Kathara Colliery of M/s. C.C. Ltd.

3. The case of the management, on the other hand, is that there is no employer—employee relationship between the concerned persons and the management and according to the management most of them are strengers and job seekers. Only few of them had worked through contractor for performing some casual nature of job and non-prohibited category of job. They are not entitled for regularisation and the work on which they were engaged through contractor was of very temporary nature. According to the management, such work has not been prohibited by the appropriate Government by issuing Notification and this Tribunal has got no jurisdiction to prohibit nor abolish contract system in any job which has not been declared to be permanent and perennial nature of job for being integral part of the Coal Industry. In the circumstances mentioned above, the management has pleaded that the concerned persons are not at all entitled to any relief.

4. Although the management has pleaded that most of the concerned persons are strengers and job seekers, but not has specified out of 36 concerned workmen who have worked under contractor. The management has not also filed any paper showing the dates from which such contractor was engaged and the name of the contractor's workers who were engaged by the contractor to do the job through the contractor. As a mtter of fact, the management has not filed even a chit of paper to show that any contractor was engaged for any specific work for a specified period. The management has also not filed any licence of the contractor nor they have filed any registration certificate showing that the establishment of the management was registered for engagement of contractor. Although in the written statement the management has denied the relationship between the management and the concerned persons as that of employer and employee, but MW-1—S.K. Mishra, who is Superintending Engineer in his evidence has admitted that six sheets of attendance of some of the concerned persons have been signed by him. These sheets have been marked as Ext. W-3 series. It appears that these are weekly attendance sheets of few of the concerned persons for the period 25-10-99 to 31-10-99, 15-11-96 to 19-11-96, 24-10-96 to 26-10-96, 5-10-98 to 14-10-98 and 11.11 to 16.11 (year not mentioned). Thus, from the own admission of MW-1 it is apparent that some of the concerned persons were working under the management in the years 1999, 1998, 1996 and so on. These attendance sheets do not bear signature of any contractor nor there is any name of any contractor on these attendance sheets. Therefore, the case of the mahagement that the concerned persons are strenger is falsified by own evidence of the management. Besides this the sponsoring union has filed an application praying to direct the management to produce the attendance sheets of the concerned persons for the relevant period, but the management has not filed those attendance sheets nor they have offered any explanation for not filing such attendance sheets. As per the provision of Sec. 7 of the Contract Labour (Regulation & Abolition) Act, 1970 the establishment of the management is required to be registered for engagement of contractor. Similarly, as per the provision of Sec. 12 of the aforesaid Act the contractor is required to obtain licence.

Further, the principal employer under Sec. 20 of the aforesaid Act is liable to see that the contractor's workers get the amenities as described in Chapter V of the Act. The principal employer is also liable to see that payment of wages are made to the contractor workers in presence of the representative of the management. Under Sec. 29 of the aforesaid Act every employer and every contractor is required to maintain such registers and records giving such particulars of contract labourers employed, the nature of work performed by a contractor, rate of wages paid to the contract labourers and other particulars in such form as may be prescribed. Further, according to the Contract Labour (Regulation & Abolition) Central Rules, 1971 every principal employer is required to maintain register of contractor in Form XII, register of persons employed in Form XIII and every contractor must issue a Employment Card to its employees and service certificte. Every contractor is required to maintain muster roll for its employees and every contractor is required to submit half yearly return to the Licencing Officer. But the management has not filed any paper relating to contract or its workers.

5. The sponsoring union, on the other hand, has filed some xerox copy of the weekly attendance register under signature of the Attendance Clerk of the Colliery which have been marked Exts. W-1 and W-2 series. These registers show that the concerned persons are working regularly under the management for pretty long time. Under the Coal Mines Act also the management is required to maintain a register in Form 'F' for persons employed above ground, but the management has not produced any such registers to show the actual number of days work by each of the concerned persons nor they have filed any chart prepared on the basis of Form 'F' Register or on the basis of wage-sheets of the contract labourers to show that for how many days the concerned persons have worked in Kathara Colliery. Therefore, an adverse inference has to be drawn against the management and the evidence of the sponsoring union will have to be accepted as correct that the concerned persons have been working for more than 240 days in a calendar year since long.

6. It has been submitted on behalf of the management that as per decision of Dinanath Case, although the establishment of the management was not registered and the contractor was not having any licence yet there cannot be any order of regularisation. Further they have pleaded that in view of the judgement in Steel Authority of India Vs. National Union Water Front Workers & Others reported in L.L.N. 2001(4) page 135 the concerned workmen are not entitled for regularisation.

7. So far Dinanath case is concerned much water has flown after that and it is true that only due to aon-registration of the establishment and contractor not having licence no order for regularisation can be passed. But inview of various judgements on the point when there is materials on record to show that actually the concerned persons were working regularly for more than 240 days in a calendar year they cannot be retrenched/stopped from duty without compliance of Sec. 25-F of the I.D. Act.

8. So far SAIL case is concerned in that case also the ratio has laid down in other Supreme Court Cases, like, United Salt Workers (P) Ltd. Vs. Their Workmen, reported in 1962 (I) LLJ (SC) page 131, Basti Sugar Mill Vs. Ram Ujagar, reported in1963 (II) LLJ (SC) page 447, Shankar Mukherjee & Ors. Vs. Union of India & Ors., reported in F.L.R. 1990 (Vol. 60) page 20 (SC), Hussainbhai, Calicut Vs. The Alath Factory Thezilali, Union Kozhikode & Others, reported in SCLJ (Vol.-15) page 112 (SC), Royal Talkies Vs. E.S.I. reported in SCLJ (15) page 101, and Secretary, Haryana State Electricity Board Vs. Suresh and others reported in 1999 Lab. I.C. 1323 still hold good and the SAIL judgement has not diluted the ratio of the Apex Courts in the above noted case. The SAIL judgement firstly deals with a Notification issued by the Government and decides as to who is 'appropriate Government' and secondly rules that even if a person is engaged in prohibited category of job he cannot be ordered to be regularised in a writ petition. However, the aforesaid case does not debar a Tribunal or Labour Court to decide whether on the evidence and materials available on record a person can be ordered to be regularised/departmentalised or not. Therefore, the aforesaid two cases do not debar a Tribunal or Labour Court to lift the veil and decide whether a person is the employee of principal employer and the contractor is a camouflage or not.

9. If we apply the ratio of these cases as mentioned above, I find that the management has rather failed to prove that there was any contractor and under them the concerned persons have worked for a very short period and their work was not regular, father temporary. On the other hand, the sponsoring union has brought on record to show that the concerned persons were working in Kathara Colliery for pretty long time regularly and doing miscellaneous jobs, like, erection of electrical pole/wire, fixing pole for overhead line and doing the electric wiring over the pole, installing cables, cutting foundation for installation of pump and erection of stone walls etc. Therefore, I find that the concerned persons are the employees of the principal employer who were doing miscellaneous jobs as mentioned above under the management under its supervision and control for pretty long time and their attendance in each calendar year has been remained to be more than 240 days. Therefore, the action of the management to stop work w.e.f. 17-3-2000 without complying of Sec. 25-F of the I.D. Act is illegal and void abinitio and they are entitled for reinstatement and regularisation in due course of time.

10. In the result, I render following award :

The demand of the union for regularisation by the principal employer of Kathara Colliery of M/s. C.C. Ltd. of Mahesh Mahato and 35 others whose names find place in the terms of reference are entitled for re-instatement into service and regularisation as the permanent employees of the management of M/s. C.C. Ltd. in due course. The management is directed to regularise the concerned persons as Category-I Mazdoor within 30 days from the date of publication of the award failing which they shall be entitled for wages of Category-I on expiry of 30 days from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एच पी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-II के पंचाट (संदर्भ संख्या 11/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2006 को प्राप्त हुआ था।

[सं. एल-30012/03/1998-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.11/1999) of the Central Government Industrial Tribunal/Labour Court, New Delhi- II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of HPCL and their workman, which was received by the Central Government on 30-5-2006.

[No. L-30012/03/1998-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI.

I. D. No. 11/1999

IN THE MATTER OF :—

Shri Nandan Singh (Refuelling Operator) & others,
Through the Secretary,
Petroleum Workers Union,
C-160, Sarvodaya Enclave,
New Delhi-110017.

Versus

The Management of Hindustan Petroleum Corporation Ltd.,
Through the General Manager (Marketing),
North Zone, Jeevan Bharti Building,
11th Floor, Tower-I, Connaught Circus,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter No. L-30012/03/1998-IR(C-I) Central Government Dt. 4-12-1998 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether Shri Nandan Singh, Refuelling Operator, Shri Jaskaran Singh HB Driver and Shri A.K. Pathania, Helper after reinstatement are entitled to their full salary under the Model Standing Orders for period of their suspension ? If yes, to what relief the workmen are entitled to?"

The Workmen applicant has filed claim statement. In the claim statement it has been stated that M/s. Hindustan Petroleum Corporation Ltd., hereinafter referred to as the "Management" is one of the leading Oil Companies, incorporated under the Companies Act. The Management is engaged in the marketing and distribution of Petroleum Products, having their zonal office for the North Zone at Jeevan Bharati Building Connaught Circus, New Delhi-110001.

That the workmen in question—Shri Nandan Singh Employee No. 994672—Refuelling Operator; Shri Jaskaran Singh Employee No. 541135—Heavy Vehicle Driver & Shri A.K. Pathania Employee No. 541273—T/T Helper are employed by the Management and are working for a number of years as regular and confirmed employees under the Management in the North Zone presently headed by Shri S.P. Chaudhary, General Manager, North Zone of Hindustan Petroleum Corporation.

That the workmen are members of Petroleum workers union, a registered trade union recognised by the Management.

That the workman Shri Nandan Singh was suspended pending enquiry *vide* order dated 25-3-1990 by the Management. He was issued a charge sheet dated 9-4-1990. The charges were denied by the workman and the Management ordered an enquiry *vide* G.M.O. North Zone's letter MNZ : MSL : PERS dated 19th June, 1990. After the enquiry, the Disciplinary Authority Shri R. Dhir revoked the suspension of the workman and imposed a penalty of 'demotion from the position of Refuelling Operator—Grade M-07 to Crewman in Grade M-05. It was further ordered that Shri Nandan Singh will not be paid any salary and other benefits for the suspension period. The workman appealed against the order of the Disciplinary Authority to the Appellate Authority—Shri D. S. Mathur—Director Marketing (Officiating). The appellate authority vide order dated July 11, 1995 upheld the order of the Disciplinary Authority in a Mechanical manner and with a biased and prejudicial mind without considering the facts and the law; demoting the workman from the position of Refuelling Operator to Crewman in Grade M-05, and that the workman will not get any salary and other benefits for the suspension period.

Shri Jaskaran Singh & Shri A. K. Pathania were also suspended pending enquiry vide order dated 22-2-1991. The Management issued charge sheets to the workmen vide G.M.O. North Zone's Order No. MSL/PERS dated 29-4-1991. The charges were denied by the workman and the Management ordered an enquiry vide G.M.O. North Zone's letters No. MNA/MSL/PERS dated 12-6-1991. After the enquiry, the Disciplinary Authority Shri R. Dhir revoked the suspension of the workmen and imposed a penalty of demotion from H.V. Driver (Grade M-07) to Depot General Workman (Grade M-03) on Shri Jaskaran Singh and imposed a Penalty of demotion from T/T Helper (Grade M-03) to General Workman (Grade M-01) on Shri A. K. Pathania. It was further ordered that the wages and other benefits for the suspension period i.e. from 22-2-1991 till the date of joining (12-8-1994) will not be payable to them.

The workmen appealed against these orders to the appellate authority. The appellate authority

Shri H. L. Zutshi Director Marketing orderd on March 31, 1995—"I hereby modify the order of the Disciplinary Authority one increment without cumulative effect." in the respective orders to Shri Jaskaran Singh and Shri A. K. Pathania. The workman were then directed to join on their original positions in Grade M-07 and Grade M-03 respectively.

The Management kept Shri Nandan Singh under suspension from 15-3-1990 to 7-11-1994 pending enquiry and kept Shri Jaskaran Singh and Shri A.K. Pathania under suspension pending enquiry from 22-3-1991 to 12-8-1994 for the alleged misconduct for which they were awarded punishments after domestic enquiry.

Since the Management in addition to the punishment awarded of demotion from Grade M-07 to M-05 from the rank of Refuelling operator to on Shri Nandan Singh crewman; and imposing a penalty of one increment without cumulative effect on Shri Jaskaran Singh and Sh. A. K. Pathania refused to treat them on duty during the period of suspension and refused to make payment of their entitlements to the same wages as they would have received if they had not been placed under suspension after deducting the subsistence allowance paid to them for such period, under the provision of Ind. Employment (Standing Orders) Act, 1946 and rules framed thereunder, An Ind. Dispute was raised and their dispute was seized in Conciliation on 7-11-1997.

That the Corporation is covered under the Industrial Employment (Standing Orders) Act, 1946, and the Model standing orders were applicable to the Corporation, till the draft Standing Orders proposed got certified by the Corporation were in appeal before the appellate Authority —the Chief Labour Commissioner (Central) and were disposed of by him vide his orders dated 7-6-1995 and received by the union on or about 26-6-1995. Section 7 of the Industrial Employment (S.O.) Act, 1946 provides that in cases "where an appeal against the Certified Standing Orders is preferred, the operation of standing orders shall come into operation on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of Section 6 of the Act."

That the Corporation signed Long Term Settlements with the Union for and on behalf of their workman in the Marketing Division on 5-3-1991 and 20-5-1995, wherein it was agreed by the parties that the terms and conditions of service prevailing prior to signing of this settlement and which are not varied by this settlement shall continue as if specifically provided for in this settlement. The Management is, therefore, also Bound by the terms and conditions of service of the workman prevailing prior to signing of the settlement and not varied by the said settlement and therefore to abide by the Model Standing Orders applicable to the Corporation at the times of signing of the above settlement.

That during the suspension period, the Management paid subsistence allowance at the rate of 50% of the wages, which they were entitled to immediately preceding the date of 75% of such wages for the remaining period of suspension to all the three workmen under Sec. 10-A of the I.E. S.O's Act, 1946 to affirm that Model standing orders were applicable to the Corporation and not the Certified Standing Orders, which were pending in appeal before the C.L.C.(c) at the time of reinstatement of the workman on duty. Under the Draft Standing Orders of the Management pending in appeal before Chief Labour Commissioner (C), the workmen would have been entitled to 100% of the wages after 180 days of suspension, but the Management did not make 100% payment after 180 days on the plea that till their appeal is not disposed of by the Chief Labour Commissioner (C), only Model Standing Orders are applicable to them. But now they are not treating the workman on duty and are refusing to make payment of the full wages of the workman under clause 14(4)(c) of the Model Standing Orders under the I.E.(S.O's) Act,1946 and rules framed thereunder.

Wihout prejudice to the contention that the punishments awarded to Shri Nandan Singh (Demotion from Refuelling Operator Grade M-07 to Crewman Grade M-05) and to Shri Jaskaran Singh and Sh. A.K. Pathania (Stopage of one increment without cumulative effect) were unreasonable and unjustified, workman were entitled to deemed to have been on duty during the period of suspension and were entitled to be same wages as they would have received if they had not been placed under suspension after deducting the subsistence allowance paid to them for such period after reinstatment and after awarding them punishment as above, aften domestic enquries under the I.E.S.O.'s Act.

That under the provisions of clause 14(4)(c) of the Industrial Employment (Standing Orders) Act, 1946, and rules framed thereunder, it is provided as under :

> "Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period would have received if he not placed under suspension, after deducting the subsistence allowance paid to him for such period."

As explained in para 7 above, the appeal against the draft standing orders of the Management was disposed of by the C.L.C. (c) vide his letter no. I.E. 5/6/90-LS. I dated 7th June, 1995, the certified Standing orders could only be made applicable after seven days of the above order under Sec. 7 of the I.E.S.O.'s Act, 1946 though the workman were reinstatement in the year 1994 much before the above order of CLC(C).

The above order of the Chief Labour Commissioner (C) was also received by the Management, they were fully aware that the exiting Model Standing Orders were applicable to the Hindustan Petroleum Corporation atleast till 14-6-1995. The action of the Management therefore not treating the workman on duty for the suspension period and withholding their wages for the said period in violation of the Model standing orders applicable to them was unreasonable and unjustified, particularly when Shri H.L. Zutshi—Director Marketing modifide the orders of Disciplimary Authourity dated 27th July, 1994 in appeal,

and imposed a penalty of stoppage of one increment without cummulative effect on Shri Jaskaran Singh and Shri A.K. Pathania did not order for withholding the payment of wages of workman for suspension period.

The management has filed written statement. In the written statement it has been stated that the terms of reference in the present case has been made by Shri Ajay Kumar, Desk Officer, who has no legal and valid authority to make the terms of reference. The terms of reference and the resultant proceedings are without jurisdiction.

That the terms of reference has been made mechanically and without application of mind. Reference is also bad in law on that account.

It is stated that all the three claimants namely, Shri Nandan Singh, claimant No.1, Shri Jaskaran Singh, claimant No.2 and Shri A.K. Pathania, claimant No.3 were in the services of the replying management. It is relevent to state that all the three claimants were suspended due to pending charges in past, details about the same are given hereinafter.

The alleged union namely, Petroleum Workers Union has no *locus standi* to represent employees of the replying management. The alleged union is creation of few individuals with ulterior motive of placing hurdles and causing disturbance in the affairs of the management. Shri K.L. Chhabra who in the statement of claim is alleging himself to be the Secretary of alleged union which is denied. Shri K. L. Chhabra is a retired employee. He incites the other employees of the management for his ulterior motivess. He is trying to invoice the management in various frivolous litigations.

It is stated that the dates and suspension of the claimants is a matter of record and the management shall reply on the official record to show the true and correct position. The terms of reference dated 11-2-98 has been made by the Desk Officer is wholly without jurisdiction. The Desk Officer has no legal and valid authority in his favour for making the terms of reference. Further, the terms of reference as made is not an industrial dispute but industrial disputes of the three claimants. The terms of reference has been made mechanically and without application of mind. It is relevant to state that the management applied for certification of approved standing orders by the competent authority which was filed on or about October, 1988. Vide order dated 31-01-1990 the certifying authority approved the standing orders and in the proceedings before the certifying authority, there were various unions/associations which representing almost all the employees to be covered by the certified standing orders. The union was fully satisfied with all the certified standing orders. However, the alleged union namely, Petroleum Workers Union, which is a creation of few persons and the paper union filed an appeal dated 19-06-1990. The appellate authority vide its detailed order dated 07-06-1995 upheld the order of the certifying authority dated 31-01-1990. It is also relevant to state that the appellate authority never passed any order of stay or put any embargo on the orders of the certifying authority. Rest of the contents of the Para argumentative in nature. In this regard, it may also be stated that the alleged union namely, Petroleum Workers Union has filed a writ petition being No.3638/95 before Hon'ble High Court of Delhi against the order dated 07-06-1995 of the appellate authority, which is pending disposal. The petitioner union has asked for the stay of the order of the appellate authority which was not granted. Moreover, the petitioner union never appealed against payment of subsistence allowance as per the HPCL's Certified Standing Orders.

That the interpretation of the claimants of the settlement dated 05-03-1991 and dated 20-05-1991 is misconceived and untenable. The management would refer to the judgments themselves to show the true and correct position. Rest of the contents of the para are argumentative in nature. The subsistence allowance paid to the claimant was proper and justified. None of the claimants out of the three claimants is entitled to more amounts than what has been paid to them during the suspension. In this regard it is also relevant to refer to the final punishment order as was made by the disciplinary authority, appellate authority in the cases of each of the claimants. The allegations made in the paras are argumentative and shall be dealt with in detail at the time of oral submission.

That the allegation as made by the claimants is argumentative. The claimants are not entitled to more amount than what they have been paid during suspension. It is denied that the punishment imposed on either of the three claimants is unjust or improper. The allegations and the claim as made are beyond the terms of reference, assuming the reference to be valid. It is submitted, it is well settled that the claimants cannot go and claim relief beyond the reference, assuming the reference to be valid. Clause 14 (4)(c) as reproduced in Para 11 are not applicable in the present case. The claim is wholly without jurisdiction and also misconceived and ill-conceived in law.

That the claimants/union cannot be permitted to take contradictory stand at different places. The provisions of the model standing orders and specially provisions of the model standing orders are specially of clause 14 (4)(c) are not applicable on either of the three claimants. The management will rely on the orders of the certifying authority/appellate authority to show true and correct legal position, vis-a-vis Industrial Employment (Standing Orders) Act, 1946. It is denied that there is any illegality or unfair action or violation of any provisions of law, orders as vaguely alleged. The provisions of model standing orders are not applicable on the claimants. The claims made herein are wholly without jurisdiction and untenable.

The provisions of clause/section 14(4)(c) are not applicable in the present case.

The whole claim of the claimant is liable to be dismissed with costs. The workmen applicants have filed rejoinder. In their rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workmen that claimant No. 1 Shri Nandan Singh was suspended on 15-03-1990 and was reinstated by disciplinary authority on 07-11-1994. The claimant No. 2 and 3 Shri Jaskaran Singh and Shri A.K. Pathania were suspended on 23-03-1991 and were reinstated on 27-07-1994 by the disciplinary authority.

It was further submitted that it has been provided under clause 14(4)(c) of Model Standing Orders which reads as under :

> "Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period."

It was submitted that in case of imposition of fine, withholding of annual increment or reduction in rank, the workmen shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as they would have received, had they not been placed under suspnsion. In the instant case the workman Shri Nandan Singh was suspended on 15-03-1990 and he was reinstated on 07-11-1994.

It was further submitted that the appellate authority modified the order of the disciplinary authority on 31-03-1995 and awarded punishment of stoppage of one increment without cumulative effect. So the workman Jaskaran Singh and A.K. Pathania were provided punishment of stoppage of one increment for one year. The other workman Shri Nandan Singh was demoted from the position of refuelling operator to crueman in Grade M-05. As such there was reduction of rank of Nandan Singh and stoppage of one increment without cumulative effect in respect of the two other workmen Shri Jaskaran Singh and A.K. Pathania. According to clause 14(4)(c) of the Model Standing Orders the workmen are entitled to full salary as if they have not been suspended.

It was submitted from the side of the management that the disciplinary authority has ordered that they will get no other benefits. The order of the disciplinary authority is erroneous and illegal. The disciplinary authority cannot pass orders in contravention of clause 14(4)(c) of the Model Standing Orders.

It was submitted from the management that Model Standing Orders were not applicable in case of these workmen.

It was submitted from the side of the management that they applied for certification of approved standing orders by the competent authority in 1988 vide order dated 31-01-1990 the certifying authority approved the standing orders and in the proceedings before the certifying authority there were various unions and associations representing almost all the employees. The present union namely, Petroleum Workers Union is a creation of few persons and a paper union. It filed an appeal dated 19-06-1990. The appellate authority vide its detailed order dated 07-06-1995 upheld the order of the certifying authority dated 31-01-1990. The appellate authority passed no order of stay and did not put an embargo on the orders of the certifying authority. The management has admitted that an appeal against the certification of the standing orders was referred before the appellate authority and the appellate authority certified the standing orders on 07-06-1995.

It was submitted from the side of the workman that an appeal was preferred not by the present union but there were 9 unions before the appellate authority, Shri Surinder Nath. There is no merit in the contention of the management that the present union above filed an appeal before the appellate authority. It becomes quite obvious from the order of the appellate authority B-183 that 7 unions were a party to the order of the appellate authority. The present Petroleum Workers Union has been made applicant No.2 in the appeal. Shri Surinder Nath is the appellate authority. So in the appeal there was representation of at least 7 unions and the argument of the management that only the present has filed appeal before Shri Surinder Nath, appellate authority is misconceived. The appellate authority has held that all the clauses under appeal are fair and reasonable as certified by the certifying officer except clause 9 and clause 18. These clauses should be modifie as per these orders.

The workmen have filed the order of the appeal Ex.PW2/1 paper no.B-44. It becomes quite obvious that against the order of the certifying authority RLC (C), Bombay an appeal has been preferred and in case an appeal is preferred the certified standing orders are not operative till disposal of the appeal and till copy of the orders of the appeal are sent to the respective unions.

My attention was drawn to Section 7 of the Industrial Employment Standing Orders Act, 1946. Section 7 is reproduced as hereunder :

> "Standing orders shall unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of the section 6."

According to section 7 of the Industrial Employment Act, 1946 it has been provided that the standing orders will come into force in case an appeal has not been filed on the expiry of 30 days from the date of which authenticated copies thereof are sent under sub-section (3) of section 5. In case an appeal is preferred the standing orders will operate. The standing orders after modification or otherwise will come into operation on the expiry of 7 days from the date of which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

Section 7 provides that certified standing orders will not operate in case an appeal has been preferred. Such

certified standing orders will prevail after 7 days of the order of the appellate authority in view of section 2 of sub-section (6).

Clause 14 (4)(c) of the model standing orders specifies time limit of 21 days for preferring an appeal against the orders of disciplinary authority.

It was submitted further that appeal was not filed as the standing orders were got certified by a retired authority and when the union came to know of the certified standing orders an appeal has been preferred. It has been alleged that the Draft Standing Orders were certified by the competent authority after his retirement on 31-01-1990. He certified the draft standing orders on 23-05-1990 after three and half months of his retirement. Whatever be the case it is apparent from the record and the documents filed on the record that majority of the unions have preferred an appeal and Shri Surinder Nath is the appellate authority and he has passed the order in appal on 31-05-1995. In view of section 7 the certified standing orders became operative after 7 days of the order of appeal i.e. on 07-06-1995.

It is held after perusal of the record that an appeal has been preferred against the alleged certified orders dated 31-01-1990 by 7 unions. The appeal has been entertained by the appellate authority and he has passed order on 31-05-1995. The certified standing orders will come into operation after 7 days of the order of the appellate authority.

It was further submitted from the side of the workman that in view of section 7 of the Act, 1946 and clause 14 (4)(c), the workmen were entitled to get the entire wages as if they have not been suspended. Shri Nandan Singh is entitled to get his entire wages from 15-03-1990 to 06-11-1990. Shri Jaskarn Singh and A.K. Pathania are entitled to get their full wages from 22-03-1991 to 26-07-1994.

The management has filed B-121 the certified standing orders. At the end of the order the names of Shri B. Sinha, RLC(C) and Shri Surinder Nath, appellate authority have been mentioned. This book also proves that Shri Surinder Nath was the appellate authority. His name has been mentioned at the end of the certified standing orders as he has decided the appeal. So there is adequate evidence to prove the fact that an appeal has been preferred against the alleged certified standing orders dated 31-01-1990 and the appeal has been decided on 31-05-1995.

The cases of the workmen are covered under clause 14 (4)(c). There is reduction in their rank and withholding of one increment so after reinstatement they are entitled to get the entire wages after deducting the subsistence allowance paid to them for such period.

The workmen have been demanding the same and from the above discussion it becomes quite obvious that the management should have paid them their entire wages in view of section 7 of the Industrial Employment Act, 1946.

It is also held that the Industrial Employment Act, 1946 was applicable in the case of these workmen as the certified standing orders came into operation on 07-06-1995. The management has deliberately and malafidely withheld payment of these workmen belonging to a poor segment of society in order to harass them and in order to constrain them to resort to litigation. The harassing attitude of the management is reflected even in the order of the disciplinary authority who has ordered that the claimants will get no benefit. The disciplinary authority cannot sit in appeal over section 7 of the Industrial Employment Act, 1946. He has acted malafidely and with a view of harassing the present workmen.

It was submitted from the side of the workmen in such cases the workmen should get interest as their wages have been illegally withheld in contravention of section 7 of the Industrial Employment Act, 1946.

It is true that the workmen have been deprived of their due benefits for almost 12 years. They will get the amount at present after 12 years. In the circumstances the workmen are entitled to get 10% interest on their entire arrears of wages and a cost of Rs. 10,000 (Rs. Ten Thousand). The management will pay the arrears along with interest and costs to the workmen. The poor workmen have been driven to resort to unnecessary litigation imposed may be recovered from the erring officials.

The workmen are entitled to get the arrears of wages and interest and costs as referred to above within two months from the publication of the award.

The reference is replied thus:

Shri Nandan Singh, Refuelling Operator, Shri Jaskaran Singh, HB Driver and Shri A.K. Pathania, Helper after reinstatement are entitled for their full salary under the Model Standing Orders for the period of their suspension. The management is directed to make payment of full salary to these workmen for the period of suspension after deducting the subsistence allowance paid to them with 10% interest and a cost of Rs.10,000 (Rs. Ten Thousand) within two months from the date of publication of the award.

Award is given accordingly.

Date : 26-05-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या आई डी-96/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-41012/173/1997-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2006

S.O. 2418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D.-96/1998) of the Central Government Industiral Tribunal/Labour Court, Kanpur, now as shown in the Annexure in the Industrial

Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 1-6-2006.

[No. L-41012/173/1997-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR, U.P.

PRESENT : SRI SURESH CHANDRA, PRESIDING OFFICER

INDUSTRIAL DISPUTE NO. 96 OF 1998

In the matter of dispute between :

Sri D.K. Jha
Officiating President
All India Railway Employees Confederation
T-46, G.T. Road,
Kanpur.

And

Divisional Railway Manager,
Northern Railway, Allahabad.

AWARD

1. Central Government, Ministry of Labour, New Delhi *vide* notification No. L-41012/173/97-IR(B-1) dated 6-6-1998 has referred the following dispute for adjudication to this Tribunal :—

> KYA MANDAL RAIL PRABANDHAK UTTAR RAILWAY ALLAHABAD KE DWARA SRI G.D. SINGH KO 7-11-86 SE 14-10-1992 TAK KA SENIOR CLERK KA VETAN NA DENA AUR 1995 SE 1680 KA MOOL VETAN UNKE JUNIOR CLERK KE BRABAR NA DENA UCHIT AVAM VAIDHANIK HAI ? YADI NAHI TO SAMBANDHIT KARMA-KAR KIS ANUTOSH KA HAQDAR HAI ?

2. The case of the workman in short as set up by the union raising the dispute is that the workman was appointed as labour by the opposite party on 12-06-1958. On the basis of his being declared decategorised in the scale of pay Rs. 260-400, the workman was appointed as clerk in the pay scale of Rs. 260-400 which was revised as 950-1500 w.e.f. 1-1-1986 on the basis of recommendation of 4th Pay Commission. The workman was transferred and was posted under CWS Northern Railway, GMC, Kanpur in the year 1990 and w.e.f. 15-10-1992 the workman was made to officiate as senior clerk and was paid wages of the scale of senior clerk i.e. 1200-2040. It has been alleged by the workman that he ought to have been paid wages of the post of senior clerk w.e.f. 7-11-1986, whereas his junior was getting that scale. It has been alleged that railway administration ultimately considered the workman as senior clerk w.e.f. 7-11-1986 but the workman has not been paid his pay of senior clerk by way of arrear of pay for the period 7-11-1986 to 14-10-1992. It has been alleged that the workman was considered to be senior clerk w.e.f. 7-11-1986 still railway administration paid him the pay of the scale of senior clerk w.e.f. 14-10-92 workman has also claimed Rs.70/- per month as incentive. It has been alleged that the railway administration treated the workman as Head Clerk in the scale of pay Rs. 1400-2300 w.e.f. 1-1-1996 but his pay has been fixed in the scale of head clerk on proforma basis w.e.f. 1-1-1995 and on the basis of proforma fixation the pay of the workman was fixed at Rs. 1520/- on 1-1-1996 in the grade of head clerk. It is also alleged that junior to the concerned workman by name Sri G.S. Awasthi who was appointed in the year 1972 was granted the scale of pay of the post of senior clerk w.e.f. 7-11-1986 but the workman has been deprived of the scale of pay of senior clerk and the designation of the post has also not been granted to the workman by railway administration. Workman has also alleged that his junior was getting basic pay of Rs. 1680/- per month w.e.f. 1995, whereas the workman has been given Rs. 1520/- per month as basic pay w.e.f. January 96. On the basis of above pleadings the workman has claimed that he is also entitled to get Rs. 1680/- per month as basic pay which is at par to his junior, w.e.f. January 95, till the date of his superannuation i.e. 30-6-1996, together with arrears of pay w.e.f. 7-11-86 to 14-10-1992 of the post of senior clerk.

3. The claim of the workman has been contested by the railway administration by way of filling a detailed reply, wherein relief claimed by the workman has been denied.

4. After exchange of pleadings between the parties the workman apart from filing of documentary evidence has also examined himself as w.w.1. Management of railway administration has palpably failed to adduce documentary or oral evidence despite availing of sufficient opportunity whereupon the management of railway administration was debarred from adducing evidence in support of their claim.

5. The tribunal has no option but to belief the claim of the workman which is supported by his oral and documentary evidence which has not been controverted by the management. Taking into consideration the fact that the management failed to adduce evidence in support of their case, the uncontroverted evidence lead by the workman cannot be disbelieved.

6. It is settled law that where salary of a junior employee is higher to his senior on account of some special allowance or incentive, in such case, senior employee cannot claim as a matter of right that his pay either be brought at par to the pay of his junior or he be paid at par to his junior employee. In the instant case it has been noticed from the pleadings of the parties especially of opposite party that according to the railway board's circular dated 11-7-1979, the workman is not entitled to get Rs. 70/- as special pay or allowance under rules and as such there is no provision under which pay of the workman cannot be brought at par to that of his junior employee. Therefore, in view of position as explained the workman cannot be brough at par in his basic pay to his junior who is admittedly getting special pay at the rate of Rs.70/- per month. Hence so far as reference order is concerned to grant of basic pay at Rs.1680/- to the workman the same is not tenable and cannot be granted to him, and for the remaining part of the reference i.e. first part of the reference order, it is held that the action of the management in denying the pay of the post of senior clerk w.e.f. 7-11-1986 to 14-10-1992 to the workman Sri G.D. Singh is held to be unjustified and illegal. Consequently the workman is held entitled for arrears of pay for the period 7-11-1986 to 14-10-1992 as the workman has been able to prove that the management has deprived him from the pay of the post of senior clerk for the above period.

7. Reference is answered accordingly in part, in favour of the workman and against the management.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2419—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 252/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2006 को प्राप्त हुआ था।

[सं. एल- 12025/1/2006 -आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 252/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 31-5-2006.

[No. L-12025/1/2006 IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri T. Ramachandra Reddy

Presiding Officer

Dated the 25th day of May, 2006

INDUSTRIAL DISPUTE NO. L.C.I.D. 252/2001

Between :

Smt. N. Narasamma, W/o Sangappa,
R/o Mogudampally Village, Zaheerabad Mandal,
Medak District. .....Petitioner

AND

1. The Branch Manager,
   Andhra Bank, Mogudampally Branch,
   Zaheerabad Mandal, Medak District.
2. The Regional Manager,
   Andhra Bank,
   Saifabad, Hyderabad. .....Respondents

Appearences :

For the Petitioner : Sri K. Ravinder Goud, Advocate

For the Respondent : Sri S. Udayachala Rao, Advocate

AWARD

This is an application filed by Smt. N. Narasamma, Ex-Sweeper of Andhara Bank, Mogudampally Branch Medak District under Section 2 (A) 2 of ID Act,, 1947 against the Branch Manager of Andhra Bank of Mogudampally Branch as Respondent 1 and the Regional Manager, Andhra Bank, Hyderabad as Respondent 2 seeking the relief for reinstatement with backwages.

2. It was taken on file under section 2(A) 2 of ID Act, 1947 in view of the Judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 252/2001.

3. It is submitted that the peitioner was appointed as sweeper with the first respondent Bank and worked from 1-8-1997 to 31-7-1999 continuously and that her services were terminated orally which is illegal and unjust. The petitioner approached the respondents and made representations for her reinstatement but no steps were taken. She worked for more than 240 days continuously and that her termination is in violation of the provisions of section 25 (F) of ID Act, 1947. It is further submitted that one Sri T. Kistaiah was appointed in her place and that she got issued a legal notice dated 26-6-2000 for payment of salary for the month of April to July, 1999. But no reply was given.

4. It is further submitted that on the representation made by her to the Assistant Labour Commissioner (C), Hyderabad, conciliation proceedings were taken and the same was ended in failure on 16-5-2001. It is further submitted that the name of the petitioner was recommended by the first respondent for appointment on 5-10-1998.

5. The respondent filed the counter and denied the averments made in the petition and pleaded that the petitioner never worked for more than 240 days continuously in a calendar year and further contended that the respondent is a public sector bank and the appointment will be made through the rules as per the provisions of the constitution and the petitioner is seeking appointment through backdoor entry and that the petitioner only got her name registered with the Employment Exchange and she was not sponsored by the Employment Exchange for being appointed to the service of the respondent Bank. It is further submitted that the peitioner was engaged as part-time Sweeper on consolidated wages purely on casual basis for specific periods, in the first respondent Bank and she was paid the prorata wages for the periods she had worked. It is further submitted that the petitioner was engaged as a stopgap measure till the post of the Sweeper was filled up by laid down procedure on permanent basis.

6. The petitioner filed an affidavit in support of her claim and got marked the documents as Exhibits W1 to

W9. Ex. W1 is the legal notice. Ex.W2 and Ex.3 are the postal acknowledgements. Ex.W4 is the representation to the Assistant Labour Commissioner (C) Hyderabad. Ex. W5 is the letter dated 16-11-2000 addressed to the Assistant Labour Commissioner (C) by the Deputy General Manager.Ex.W6 is the Minutes of the conciliation proceedings. Ex-W7 is the letter dated 5-10-1998 of the first respondent for recommending the petitioner for appointment of the part-time Sweeper. Ex. W9 is the letter of the respondent bank showing that the adovocate of the petitioner has verified the records.

7. As against the evidence, the respondent filed the affidavit of Sri R. Laxmi Narayana and got marked the document as Ex. M1 which is the procedure for filling up the vacancies of part-time Sweeper. The oral evidence adduced by the petitioner disclosed that she worked continuously for about two years as a part-time Sweeper and that her name was recommended by WW2 the then Branch Manager, for her appointment as part-time Sweeper. She also made representation to the Assistant Labour Commissioner (C) who held conciliation between the petitioner and the respondent Bank and the same was ended in failure. The MW1 has stated that the petitioner was engaged as a Sweeper on a consolidated wages and purely on casual basis for a specific purpose during the period 1998-99 and she was accordingly paid the wages. The rules governing the recruitment of Sweepers provides that the candidates should be sponsored by Employment Exchange. Admitting that the petitioner was not sponsored by the Employment Exchange and her engagement was Stopgap arrangement till the post is filled up on permanent basis following the due process laid down under the circular Ex. M1.

8. The Learned Counsel for the petitioner contended that the petitioner has worked for more than 240 days as a Sweeper and that she was removed orally in violation of section 25(F) of ID Act even though her name was recommended by the then management for appointment on regular basis and further contended that one Sri T. Kistaiah was appointed in place of the petitioner.

9. On the other hand, the Learned Counsel for the respondent contended that the petitioner was engaged for specific period on casual basis as a Stopgap arrangement till the post of the part-time Sweeper was filled up as per the procedure and rules laid down for its recruitment and further contended that the petitioner was not sponsored by the Employment Exchange and never worked continuously for more than 240 days and further contended that even the petitioner worked for 240 days in a calendar year and the same itself would not lead to regularisation of her services and further contended that the provision of section 25 (F) of ID Act does not applicable to the persons engaged on casual basis for specific purpose and period.

10. On considering the evidence on record, I do not find any documentary evidence that the petitioner has worked continuously for more than 240 days in a calendar year. The case of the respondent is that she was engaged for specific period intermittenly as a part-time Sweeper on casual basis and she was not recruited as per the circular Ex. M1 governing the recruitment. Even assuming that the petitioner has worked for more than 240 days in a calendar year, she will not get any right to be regularized. It should be noted that the appointment on regular post to be made in terms of the recruitment rules. Admittingly, the petitioner was not appointed under any rules governing the recruitment and she was not sponsored by the Employment Exchange. It was held in the recent decision of the Appex Court 2006 (1) Decisions Today (SC) 493 the Secretary, State of Karnataka and others Vs. Umadevi and others. It was held that when the persons, engaged or appointed on daily wages or casual basis, the same would come to an end when it is discontinued. The temporary employees could not claim to be made permanent on the expiry of the term even they worked for long time. It is held in para 34 of the said ruling "Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court,

which we have described as 'litigious employment' in the earlier part of the judgement, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him whereas an interim direction to continue his employment would holdup the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

11. In view of the said ruling, even the petitioner worked for more than 240 days, she will not get any right for reinstatement or absorption. Therefore, I do not see any merits in the application of the petitioner and the petitioner is not entitled for any relief.

Award is passed accordingly.

Dictated to Sri P. Kanaka Raju, L.D.C. transcribed by him corrected and pronounced by me on this the 25the day of May, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
W.W.1: Smt N. Narasamma	MW1: R. Laxmi Narayana
W.W.2: S. Naganna	

Documents marked for the Petitioner

Ex.W.1:	The legal notice.
Ex. W2:	Postal acknowledgement
Ex. W3 :	Postal acknowledgement
Ex. W4:	The representation to the Assistant Labour Commissioner (C), Hyderabad.
Ex. W5 :	The letter dated 16-11-2000 addressed to the Assistant Labour Commissioner (C) by the Deputy General Manager.
Ex. W6:	The Minutes of the conciliation proceedings.
Ex. W7:	The letter dated 5-10-1998 of the first respondent for recommending the petitioner for appointment of the part-time Sweeper.
Ex.W9:	The letter of the respondent Bank showing that the advocate of the petitioner has verified the records.

Documents marked for the Respondent

Ex. M1. :	Circular Lr. No. 666/20/A2/2, dated 13-3-1989.

नई दिल्ली, 1 जून, 2006

का.आ. 2420—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1442/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-06 को प्राप्त हुआ था।

[सं. एल- 12012/29/2004 -आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No1442/04) of the Central Government Industrial Tribunal cum Labour Court, AHMEDABAD (GUJARAT) as shown in the Annexure in the Industrial Dispute between the management of Dena Bank, and their workmen, received by the Central Government on 31-05-2006.

[No. L-12012/29/2004-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT AHMEDABAD

PRESENT : Shri B.I. KAZI (B.Sc., L.L.M)

Presiding Officer

INDUSTRIAL, DISPUTE (REFERENCE C.G.I.T.A.) NO. 1442/04

The Regional Manager,
Dena Bank,
Dena Laxmi Building 1st floor, 188A, Ashram Road,
Ahmedabad. (Gujarat)

First party.....

V/s.

Sh. Pramodbhai K. Parmar,
1876/ Keshbaluni, Chali Opp. Negri Mill
Rajpur Gomtipur
Ahmedabad, (Gujarat)

Second party.....

APPEARANCE:

First Party : (Absent)
Second Party : (Present)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by Order No. L-12012/29/2001-IR (B-I) dated 31-5-2004 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

"Whether the action of the management of Regional Manager, Dena Bank, Ahmedabad in retrenching Shri Pramod K. Parmar, Badlee Sepoy without following provisions of Section 25-F of the I. D. Act, 1947 is justified and legal? If not, what relief the workman is entitled to ?"

2. The second party was issued a notice to file a statement of claim by this Tribunal on 15-02-2005. The second party has submitted an authority to represent the second party. By Ex. 3, the second party submitted an application to withdraw the reference and it was stated that applicant is satisfied and he does not want to adjudicate the matter and prayed to allow the second party to withdraw the matter.

3. Looking to the facts of Ex. 3, the Tribunal has allowed to withdraw the reference. Hence I hereby pass the following order :

ORDER

Application Ex. 3 is hereby allowed. The second party is allowed to withdraw the reference. The reference is hereby disposed off. No order as to cost.

Date: 23-08-2005
Ahmedabad. B. I. KAZI, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2421—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गार्डन वुडरोफ लोजीस्टीक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1451/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-06 को प्राप्त हुआ था।

[सं. एल- 39012/4/2004 -आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 1451/2004) of the Central Government Industrial Tribunal-cum Labour Court, Ahemdabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Gordon Woodroffe Logistics Limited, and their workmen, received by the Central Government on 31-05-2006.

[No. L-39012/4/2004-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COUT AT AHMEDABAD

PRESENT : Shri B.I Kazi (B. Sc., L.L.M), Presiding Officer

INDUSTRIAL/DISPUTE (REFERENCE C.G.I.T.A.) NO. 1451/2004

The Senior Manager,
Gordon Woodroffe Logistics Limited,
36, Rajaji Salai
Chennai-600001 — First party

V/s

Sh. Pravin Jogadiya,
Type III/3, Customs Colony,
New Kandla,
Kandla (Kutch) —Second party

APPEARANCE:

First Party : Shri Harish Raval
Second Party : (Present)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by Order No. L-39012/4/2004- IR (B-II) dated 29-9-2004 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

"Whether the action of the management of Gordon Wodroffe Logistics Limited in retrenching the service of Mr. Pravin Jogadiya verbally without following the provisions of law with effect from 3rd December, 2003 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. A notice was issued to the parties by Ex. 2. During the course of proceeding the parties settled the dispute and it is bilateral settlement with the management and workman and have singed the memorandum of settlement on mutual understanding on 2nd May, 2005. A copy of memorandum is also attached with purshis at Ex. 5. Thus looking to this fact I here by pass the following order :

ORDER

The parties have come to amicable settlement. The settlement is hereby recorded and the parties are hereby directed to follow the terms of memorandum of settlement dated 2nd May, 2005. The award is passed in terms of settlement dated 2-05-2005. No order as to cost.

Date : 23-08-2005
Ahmedabad.

B.I. KAZI, Presiding Officer

नई दिल्ली, 1 जून, 2006

का.आ. 2422—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1013/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-06 को प्राप्त हुआ था।

[सं. एल-37011/1/1996-आई आर (एम)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 1st June, 2006

S.O. 2422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1013/04) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kandla Port Trust and their workman, which was received by the Central Government on 31-5-2006.

[No. L-37011/1/1996 IR(M)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT OF INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : **Shri B.I. Kazi (B.Sc., L.L.M)**

Presiding Officer

INDUSTRIAL, DISPUTE (REFERENCE C.G.I.T.A.) NO. 1013/04. (OLD I.T.C. 25/96)

The Secretary,
Kandla Port Trust,
Administrative Building, Gandhidham (Kutch) 370210
.....First party

V/s.

General Secretary, Transport & Dock Workers' Union, Room. No. 26, Yogesh Building Plot. No. 589 Ward 12-C Gandhidham (Kutch) 370210

Second party.....

APPEARANCES :

For the Party : (Absent)

Second Party : (Present)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-37011/01/1996 IR (Misc.) dated. 31-5-1996 to this Tribunal for adjudication the terms of reference is as under:

The Schedule

"Whether the action of the management of Kandla Port Trust, Gandhidham in not confirming Shri Purshottam D, appointed as Peon on 27-09-1992 on regular basis prior to the confirmation of his juniors, appointed later on, there by lowering his name in the seniority list juniors, of peons at Sr. No. 45 instead of Sr. No. 28 valid just and legal. If not to what benefits the workman is entitled for and what directions are necessary in the matter?"

2. The second party was issued a notice to file a statement of claim by this Tribunal on 1-07-1996. The second party has submitted an authority to represent the second party. By Ex. 9. The second party submitted an application to withdraw the reference and it was stated that applicant is satisfied and he does not want to adjudicate the matter and prayed to allow the second party to withdraw the matter.

3. Looking to the facts of Ex. 9, the Tribunal has allowed to withdraw the reference. Hence I hereby pass the following the order:

ORDER

Application Ex. 9 is hereby allowed. The second party is allowed to withdraw the reference. The reference is hereby disposed off. No order as to cost.

Date: 23-08-2005
Ahmedabad.

B.I. KAZI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का.आ. 2423—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं-2, नई दिल्ली के पंचाट (संदर्भ संख्या 79/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-06-2006 को प्राप्त हुआ था।

[सं. एल- 12011/173/2002 -आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 2nd June, 2006

S.O. 2423.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2002) of the Central Government Industrial Tribunal-cum-Labour Court, No.2 New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 01-06-2006.

[No. L-12011/173/2002-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COUT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

PRESIDING OFFICER: R. N. RAI I.D. NO. 79/2002

In the matter of:—

Shri J. K. Sawhney (General Secretary),
All India New Bank of India Employees Federation
(Now named as All India Punjab National Bank
Workers Federation)
Central Office, L-Block,
Connaught Circus, New Delhi-110001

Sh. J.K. Sawhney (General Secretary),
New Bank of India Employees Union (Delhi)
(Now named as Punjab National Bank Workers
Union Delhi)
1st Floor, Rajendra Bhawan, Rajendra Place,
New Delhi-110008

Versus

1. The Chairman and Managing Director,
Punjab National Bank
Head Office,
7, Bhikaji Cama Place,
New Delhi

2. The Senior Manager,
Punjab National Bank,
L-Block, Connaught Circus,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter NO. L-12011/173/2002-IR (B-II) Central Government dt. 24-09-2002 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the claim of All India New Bank of India Employees Federtion (AINBIEF) and New Bank of India employees Union (NBIEU), Delhi for continued possession of union office premises allotted by the erstwhile New Bank of India (ENBI) at B.O: L-Block, Connaught Circus, New Delhi and at Rajindra Bhawan, Rajindra Place, New Delhi after the amalgamation of ENBI with the management of Punjab National Bank vide Notification dated 4-9-1993 is justified and legal ? If not, what relief is the Federation/Union concerned entitled to?"

The Workman applicant has filed claim statement. In the claim statement it has been stated that the New Bank of India (a Nationalized Bank wholly owned by the Government of India) was amalgamated with Punjab National Bank on 4-9-1993 whereafter, Punjab National Bank issued a letter dated 20-9-1993 calling upon the Disputant No. 1 to hand over the Union Office premises in its occupation in Branch Office : L-Block, Connaught Circus, New Delhi.

That the Disputants/Unions apprehending forcible eviction from the Union Offices in their occupation and possession and withdrawal of other facilities/amenities had filed a Civil Suit titled as "All New bank of India Employees Federation and Anr. Vs. Punjab National Bank and Anr." For permanent injuction in the courts of Ld. District Judge, Delhi.

The Ld. ADJ, Tis Hazari Court, Delhi on 30-11-1995 returned the plaint by holding that the Civil Court has no jurisdiction to entertain and adjudicate upon the present dispute with oral directions to the Respondent Bank not to disturb the possession. However, the respondent Bank in the night between 30-11-1995—1-12-1995 ransacked the union office premises of Disputant/Union No. 1 and removed, besides others, legal documents and records, for which a F.I.R. No. 841/1995 u/s 448/380/34 IPC was also registered on 4-12-1995. The Disputant/Union No. 1 however, continued to remain in possession and occupation of the union office premises and other facilities.

That the Disputants/union filed F.A.O. No. 288/1995 against the judgement and Decree dated 30-11-1995 in the Hon'ble High Court of Delhi, which was converted to R.F.A. No. 1032/1995. The Hon'ble High Court was pleased to dispose of the R.F.A. No. 1032/1995 on 19-7-2002 with the following directions:—

"The Plaintiff/Appellants will submit a statement of their claims before the appropriate Government within a

period of one month from today. On Receipt of the Statement of claims, the appropriated Government will take due steps and shall refer the disputes for adjudication by the machinery as provided under the Industrial Disputes Act, 1947, namely the Central Government Industrial Tribunal, within a period of six weeks from the date of receipt of the claim petition. On receipt of the reference, the Industrial Tribunal will proceed to adjudicate upon the reference, in accordance with law, as expeditiously as possible and in any case not later than eight months from the date of receipt of the reference. Learned counsel for the parties have assured that before the Industrial Tribunal, full cooperation will be extended by the parties without seeking unnecessary adjournments.

It is further directed that till the matter is taken up by the Industrial Tribunal, for adjudication status quo as of today will continue to be maintained. Thereafter, it will be open for the Industrial Trinunal to pass appropriate order, in accordance with law."

That the Disputants/Unions have been in continuous possession and occupation of office premises and other various facilities including telephone number 2247851 (now changed as 22547851) installed at the residence of General Secretary of the Disputants/Unions, the telephone bill of which are being paid by the Respondent Bank. However, the other telephone No. 3320093 which was installed at the Union Office premises of Disputant/Union No. 1 was illegally got disconnected by the Respondent Bank in 1997 and the same is liable to be restored and the bills of the same are also liable to be paid by the bank.

That the employees of the New bank of India Ltd. who were covered under the Indusrial Disputes Act, 1947 organized themselves into various state level employees unions known as New Bank of India Employees Union, such as the Disputant No. 2 for the purpose of having effective bargaining power with the then management of New Bank of India to obtain/secure better terms and conditions of their employment. All the State level unions bound themselves into a federation known as All India New Bank of India Employees Federation. The Disputant No. 1 become an instrument of the employees of the said New Bank of India on all India basis for seeking from the management improvement in the terms and conditions of employment of the employees and to seek improvements in the lot of the employees.

That in the year 1971 the Disputant No. 1 and various state level Unions had raised certain demands upon the manageemnt of 'The New Bank of India Ltd.' which, inter-alia, included formal recognition and certain trade union facilities. Consequently after negotiations, an agreement arrived at between the management of the New Bank of India Ltd. and the Disputant No. 1, which was recorded in the form of a Memorandum of Settlement dated 5-11-1971 and which was duly signed/executed on behalf of the said bank by it's the then Chairman and the General Manager and on behalf of the Disputant No. I by it's the then President and the General Secretary, respectively, and the management of the New Bank of India Ltd. accorded formal recognition to the Disputant No. 1 and all its state level Unions for all intents and purposes. The Bank further agreed to provide all facilities to the Disputant No. 1 and all other state Unions and their principal office bearers, such as space, furniture etc. Clause (i) to (v) of Para 1—Recognition as recorded in the said Memorandum dated 5-11-1971, which are relevant to the present dispute, are extracted herein below:—

That thus the management of New Bank of India had recognized the Disputant and other State Unions and had provided to the Disputants and other State Unions in all the states office accommodation and other facilities and amentities therein in terms of settlement dated 5-11-1971. Consequently over the ages the management of the said New Bank of India from time to time on the demands of the employees, invited the Disputants, held negotiations and entered into settlements with them relating to various demands of the employees.

That 'The New bank of India Ltd' was Nationalized on 15-4-1980 by enactment of Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980 and after Nationalization of "The New Bank of India Limited" a corresponding New Bank of India came into existence, the Board of which was reconstituted by the Government of India and represented by duly appointed Chairman and Managing Director and other directors, which include RBI and Government of India nominees.

That the reconstituted Board of corresponding New Bank of India continued honoring the agreements entered into by the Disputants and the management of "The New Bank of India Limited" under the law laid down in Banking companies (Acquisition and Tranfer of Undertakings) Act, 1980. It is submitted that New Bank of India, a bank incorporated under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 had branches in all over the country.

That pursuant to the said recognition to the Disputant and other stated unions and as agreed, the then management of New Bank of India in the year 1971 itself provided exclusive accommodation to the Disputant No. 1 for its Central Office on the mezzanine floor of New Bank of India branch at L-Blcok, Connaught Circus, New Delhi and also provided other facilities/amenities therein such as furniture, phones, fans etc. to carry on their lawful trade union activities.

That similarly, the bank provided office space and other amenities to the State Unions wherever it was required by them. The Disputant No. 2 was earlier provided for its office accommodation at the Bank's branch at Janpath, New Delhi with telephone, safe, furniture and other facilities. However, on its demand for more accomodation, subsequently the Disputant/Union No. 2 was provided reasonably a good and spacious accommodation measuring about 1500 sq. ft. on the first floor of Rajendra Bhawan to meet the requirement of the Union in terms of the Bank's letter dated 10-7-1992.

That in addition to the office accommodation and other facilities therein, the management of New Bank of India on the demand of the Disputant No. 1 had granted bank telephones at the residentce of the President and the General Secretary ofhte Disputant No. 1. Further vide leter dated 12-5-1989, the bank had agreed to sanction reimbursement of telephone bills.

That the New Bank of India was amalgamated with Punjab National Bank on 4-9-1993 pursuant to a Notification dated 4-9-1993 of the Ministry of Finance in the Government of India issued under Section 9 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980 by virtue of which New Bank of India, its business, assets, liabilities etc. stood transferred, vested and amalgamated in Punjab National Bank in terms of the said scheme.

That pursuance to the said takeover and merger of New Bank of India the Respondent immediately took control of all the office and branches etc. of New Bank of India throughout the country and were renamed as Punjab National Bank.

That the accommodation about 350 sq ft. provided by the New Bank of India to the Disputant No. 1 on the mezzanine floor of its branch office at L-Block, Connaught Circus, New Delhi and to the Disputant No. 2 at Rajendra Bhawan, together with facilities/amentities provided therein have been in their respective continuous possession, occupation and use since the time of allotment unit now and are being used by the disputants to carry on their lawful trade union activities.

That the bills of telephone No. 2247851 now changed as [22547851] installed at the residence of General Secretary of the Disputant Unions are being paid by the Respondent Bank. However, the other telephone No. 3320093 which was installed at the Union Office premised of Disputant Union No. 1 was illegally got disconnected by the Respondent Bank in 1997 and the same is liable to be restored and the bills of the same are also liable to be paid by the Bank with retrospective from 1997.

That the aforesaid agreement dated 5-11-1971 has got statutory and legislative protection under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and New Bank of India (Amalgamation and Transfer of Undertaking) Scheme, 1993 whereby New Bank of India was amalgamated with Punhab National bank. It is submitted that respective trade unions are entitled to continue to functon as such. It is submitted that under Clause 5 of the said Scheme the Respondents are legally obliged to and are bound by the Agreement dated 5-11-1971, which the management of New Bank of India had entered into with the Disputant No. 1 clause 5 of the Scheme is reproduced hereinunder for the purpose of ready reference:—

That the Respondents No. 1 is, however, bent upon destroying the Disputants and other state Unions since the time it took over New Bank of India. One such method devised by the Respondents No. 1, is to snatch away from the Disputants their office accommodation and to withdraw other facilities which they were granted and have been availing by virtue of Agreement dated 5-11-1971. It is submitted that to achieve the above mentioned objectives, the Respondent No. 2 on the instructions of the top management of Respondent No. 1 issued a letter dated 20-9-1993 addressed to Shri J. K. Sawhney who is the General Secretary of the Disputants, illegally calling upon him to hand over the premises in occupation of the Disputant No. 1 in branch office at L-Block, Connaught Circus, New Delhi on the alleged ground that there is not practice of providing any premises to any union in the bank. Shocked at the above mentioned illegal demand, the Disputant No. 1 vide letter dated 21-9-1993 addressed to the Respondents No.1, apprised him that the accommodation and such facilities and amenities were granted by the management of New Bank of India by virtue of settlement dated 5-11-1971.

That, however, instead of honouring the commitments made by erstwhile New Bank of India, the respondents in violation of the terms of the Scheme dated 4-9-93 have resorted to coercive methods against the Disputants to make them vacate the office premises duly allotted to them by the management of erstwhile New Bank of India. The Respondents are obliged to honour the said commitment and agreements in terms of the provision of Notification dated 4-9-1993 and the Scheme thereunder.

That the Disputant Trade Unions apprehending forcible eviction from the Union officers in their occupation and possession and withdrawal of other facilities/amenities, had filed a Civil suit titled as "All New Bank of India Employees Federation and Anr. Vs. Punjab National Bank and Anr." For permanent injuction in the courts of Ld. District Judge, Delhi. The Ld. ADJ, Tis Hazari Courts, Delhi on 30-1-1995 returned the plaint by holding that the Civil Court has no jurisdiction to entertain and adjudicate upon the present dispute with oral directions to the Respondent Bank not to disturb the possession. However, the Respondent Bank in the night between 30-11-1995 1-12-1995 ransacked the union office premises of Disputant/Union No. 1 and removed, besides others, legal documents and records, for which a F.I.R. No. 841/1995 u/s 448/380/34 IPC was also registered on 4-12-1995. The Disputant/Union No. 1 however, continued to be remained in possession and occupation of the union office premises and other facilities.

The Disputant unions filed F.A.O. No. 288/1995 against the judgement and Decree dated 30-11-1995 in Hon'ble High Court of Delhi, which was converted to R.F.A. No. 1032/1995. The Hon'ble High Court was pleased to dispose of the R.F.A. No. 1032/1995 on 19-7-2002 with certain directions.

That the Respondents Bank for malafide reasons intends to evict the Disputants/Unions from the union offices in their respective possession and occupation and withdraw all other facilities/amenities granted to the Disputants and their principal office bearers. The said action of Respondents will be illegal not only for the reason that the Respondents have no legal right under the Scheme dated 4-9-1993 or even otherwise under the law to go back on Agreement dated 5-11-1971 but for a further reason that it would also prevent the Disputants from carrying on with their lawful trade union activities. The action of the Respondents Bank is wholly illegal, unjustified and amounts to unfair labour practice.

The Management has filed written statement. In the written statement it has been stated that before submitting parawise reply to the claim submitted by the Federation, the Management would crave leave of this Ld. Tribunal to submit the preliminary objections with regard to maintainability of the present claim of the Federation as under :—

That the present claim filed by the Federation cannot be treated as an Industrial Dispute under Section 2(k) of the Industrial Disputes Act 1947. The "Industrial Dispute" as defined under Section 2(k) of the Act means any dispute or difference between or difference between the employer and workman, which is connected with the employment or non employment or terms of employment or the condition of labour of any person. Admittedly the present claim of the Federation does not relate to and/or connected with employment or non-employment or terms of employment or with the condition of labour and the same relates to the facility alleged to have been granted to the Federation by the Management of erstwhile NBI. Therefore, the present claim made by the Federation cannot be treated as Industrial Dispute as defined in Section 2(k) of the Industrial Disputes Act 1947.

That, without prejudice to the above preliminary objection, it is submitted that the claim of the Federation is based on the settlement dated 5-11-1971 signed between the Federation and the Management of ENBI. The said settlement is a bipartite settlement under Section 18(1) of I D Act 1947. According to the provisions contained in Section 18 (1) of the Act, the said settlement is binding on the parties to the settlement. It is an admitted position between the parties the Settlement dated 5-11-1971 is not a settlement during the course of conciliation proceedings as prescribed under Section 18(3) of the Act and as such the said settlement does not bind the successor employer i.e. the Management of Punjab National Bank.

That without prejudice to the contentions of the Management, referred to above, it is stated that the ENBI has been amalgamated with Punjab National Bank by a Notification dated 4-9-1993 notified by the Central Govt. in consultation with Reserve Bank of India in exercise of its powers under Section 9 of Banking Companies (A & T of Undertakings) Act 1970. A copy of the said Notification dated 4-9-1993 is enclosed as Annexure-M/1 Clause 5(2) of the Notification dated 4-9-1993, which relates to employees of ENBI reads as under:

"Save as otherwise provided in this Scheme, every officer or other employee of the transferor bank shall become, on the commencement of this scheme as officer or other employee, as the case may be, of the transferee bank and shall hold his office or service in that bank on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertakings of the transferor bank had not been transferred to and vested in the transferee bank subject, however, to such facilities being available at the time to the transfer to similarly placed officers and employees of the transferee bank and continue to do so unless and until his employment in the transferee bank is terminated or until his remuneration, terms or conditions are duly altered by the transferee bank."

They shall hold their office or service in PNB on the same terms and conditions and with the same right to pension, gratuity and other matter as would have been admissible to them it the undertaking of ENBI had not been transferred to and vested in PNB subject, however, to such facility being available at the time of transfer to similarly placed employees of PNB and continue to do so unless and until their employment in PNB is terminated or until their remuneration, terms or conditions, are duly altered by PNB.

The Hon'ble P & H High Court in its judgement and order dated 29-10-96 in the matter of T L Jain vs DOI and Others (CWP No.15418/941), while interpreting the provisions contained in para 5(2) of the Scheme of Amalgamation have held a under:

> "However, only those conditions of service were put that the amalgamated employees were entitled to the benefits of only those facilities at the time to amalgamation which were already available to the existing employees of Punjab National Bank. This is quite evident from the reading of para 5(2) of the Amalgamation Scheme to which the reference has already been made above. Their service conditions could not in any way be kept better than the existing Punjab National Bank employees as that would have created a discrimination and heart burning to the existing employees of Punjab National Bank."

It is further stated a Special Leave Petition No. 13867-68/97 was filed by Hon'ble Supreme Court against the above judgement and the said Special Leave Petition was dismissed by Hon'ble Supreme Court vide letter order dated 6-2-1998.

It is stated that the facility of providing the office to the Federation, was merely a facility and was not a term and conditions of employment and as such the same is not covered by the provisions contained in Para 5(2) of the Notification dated 4-9-1993. Assuming for the sake of

arguments though denied that the claim in issue raised by the Federation is covered by the aforesaid provisions of the Notification, since PNB is not extending the facility of providing the space in the bank's premises to its unions for union activities, even therefore the present claim is misconceived and not maintainable in law.

The Federation in the present claim has *interalia* essentially raised and/or has based his claim on para 4 (5) of the Scheme of Amalgamation dated 4-9-1993 and Section 12 (2) of Banking Companies (A&T of undertakings) Act 1980. Para 4 (5) of the Scheme of Amalgamation and Section 12 (2) of the Act, referred to above, reads as under:

"Unless otherwise expressly provided by this Scheme, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect, immediately before the commencement of this Scheme and to which the transferor bank is a party or which are in favour of the transferor bank shall be of full force and effect against or in favour of the transferee bank, and may be enforced or acted upon as fully and effectively as if in the place of the transferor bank the transferee bank had been a party thereto or as if they had been issued in favour of the transferee bank."

"Vocation of office of Chairman, etc. - 12(2) Save as otherwise provided in sub-section (1), every officer or other employee of an existing bank shall become, on the commencement of this Act, an officer or other employee, as the case may be, of the corresponding new bank and shall hold his office or service in that bank that bank on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking of the existing bank had been transferred to and vested in the corresponding new bank and continue to do so unless and untill his employment in the corresponding new bank is terminated or until his remuneration, terms or conditions are duly altered by the corresponding new bank."

It is not respectfully submitted that the provision of 4(5) of the scheme of Amalgamation dated 4-9-93 are not applicable to the facts and circumstances of the present claim having regard to the following:

Para4(5) of the Scheme of Amalgamation begins with the words "Unless otherwise expressly provided by the Scheme", which means that wherever the specific provisions have been made in the Scheme of Amalgamation, the provisions of Para 4(5) of the Scheme are not attracted. The terms and conditions, which would applicable to the employees of ENBI, have been specifically provided in Para 5(2) of the Scheme and as such the provisions contained in 4(5) are not applicable to the facts and circumstances of the present case.

The provisions contained in Para 4(5) are general in nature and wherever the specific provisions have been made in the Scheme, the provisions contained in the said Para are not attracted.

The document dated 5-11-1971 is a "bipartite settlement" under Section 18(1) of the Industrial Disputes Act, 1947 and is not an "agreement" as envisaged in Para 4(5) of the Scheme of Amalgamation.

It is further stated that the provisions contained in Section 12(2) of Banking Companies (A&T of Undertakings) Act, 1980 are also not attracted to the facts and circumstances of the present claim having regard to the following:

The provisions contained in the said section are applicable only to the terms and conditions of employment and as mentioned above, the providing of space to the Federation by the Management of ENBI was a "facility" not the terms and conditions of employment of any employee.

The "facility" granted to any employee and/or Union / Federation, according to the well-established law on the subject, can be withdrawn at any point of time.

It is further stated that the claim in issue raised in the present alleged industrial dispute is specifically covered by the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and since the Federation is being treated unauthorisedly occupant of the part of premises of the Bank, the Estate Officer, who is authorised to initiate proceedings under the Act, referred, to above, have already initiated such proceedings against the Federation, which are pending for adjudication. The provisions contained in the said Act further bar initiation of proceedings relating to the premises covered by the provisions of the Act before any Forum and/or Civil Court.

It is denied that the telephone which was installed of union premises was illegally got disconnected by the Bank. It is further stated that this issue had been a subject matter in the proceedings before Hon'ble Delhi High Court in RFA No. 1032/95 and the subsequent proceedings carried on by the Federation against the interim order of the Hon'ble High Court before Hon'ble Supreme Court and no relief, as claimed in this paragraph, was granted and in any event, therefore, the same cannot be the subject matter of the present alleged industrial dispute being beyond the terms of reference.

It is further denied that Sh. J.K Sawhney is competent to raise the present alleged industrial dispute on behalf of trade union and submit the statement of claim.

It is further stated that the premises which was allotted to the Unit of the Federation by the Management of ENBI in Ahemdabad, the Estate Officer have conducted proceedings under the provisions of P P Act 1971 and passed an order of eviction. The appeal filed by the unit of the Federation before the Distt. Judge has also been

dismissed and the unit of the Federation has handed over the peaceful possession of the premised allotted to them by the Management of ENBI.

However, as regards the telephone which was installed in the alleged union office, it is denied that the same was illegally disconnected and as stated above the said issue had been a subject matter before Hon'ble High Court in RFA No. 1032/95.

The Management of PNB is not bound by the bipartite settlement dated 5.11.1971 nor the Federation is entitled to continue to occupy the premises in issue in terms of the Scheme of Amalgamation dated 4.9.1993.

The General Secretary on behalf of the union has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

No oral evidence has been taken as the parties agreed that the matter pertains to documents and settlements. Both the parties have filed several miscellaneous applications and adjournments have been sought even on the ground of settlement. The parties informed that conciliation proceedings are on going and the matter may be settled so different dates have been given but at last no settlement was filed. Parties argued their cases and they have filed written submissions also.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the claimant union that there are 3 disputed points, which require adjudication or determination. The points for determination are following : —

1. Punjab National Bank is not bound by the bipartite settlements dated 5.11.1971 under the provisions of Industrial Dispute Act, 1947 signed between the management of ENBI and the claimant union.
2. The present claim made by the Federation cannot be treated as "Industrial Dispute" as defined in Section 2(k) of the Industrial Disputes Act, 1947.
3. The remedy, if any, with regard to dispute between the parties according to the management is available under the provisions of Public Premises (Eviction of unauthorized occupants) Act, 1971.

FINDINGS

Point No.1:

It was submitted from the side of the claimant union that a bipartite settlement was reached between the management ENBI and the claimant union on 5.11.1971.

It was submitted from the side of the claimant unions that the disputed accommodation has been given by the erstwhile New Bank of India in view of Memorandum dated 5.11.1971. Para-I of which reads as hereunder:

1. RECOGNITION:

1. The bank accords recognition to the All India New Bank of India Employees Federation and all its State Unions (including the UP Bank Employees Union representing the New Bank of India Employees in the State of UP and Rajasthan Bank Employees Union representing the New Bank of India Employees in the State of Rajasthan) for all intents and purposes.

2. The Bank agrees to provide space, furniture etc. to the Federation and its State Unions, wherever possible.

3. The Bank agrees to provide all reasonable facilities to the principal office bearers of the Federation and its State Unions to carry out their trade union responsibilities.

4. The Bank agrees to grant special leave to the delegates, Central Committee Members and Office Bearers to attend all India/State Conferences and/or Central Committee/State Committee meetings subject to a maximum of 21 days in a year.

5. The Bank agrees to send copies of all office circulars etc. concerning staff members in general to the Federation and its State Unions (including UP Bank Employees Union and Rajasthan Bank Employees Union) noted in before."

It was contended by the claimant union that the management has agreed to provide space, furniture etc. to the Federation and its State Unions wherever possible and in compliance of the memorandum dated 5.11.1971, Clause - II of Para-I that the Bank agreed to provide space, furniture etc. to the Federation and to its union wherever possible and in compliance of Clause-II Para-I the claimants have been provided accommodation in Connought Circus and 1st Floor, Rajendra Bhawan, Rajendra Place, New Delhi. The first claimant union was the union on behalf of All India New Bank of India Employees Federation and the 2nd claimant is New Bank of India Employees Union, Delhi.

It becomes quite obvious from perusal of Para -I that the ENBI (for erstwhile New Bank of India) has agreed to provide space, furniture etc. to the union of All India Employees and to the Union of State Employees and Rajasthan.

It was submitted from the side of the management that the settlement dated 5-11-1971 has no binding effect on the respondents/PNB as PNB was not a party to the said settlement and it has been provided in Section 18 of I.D. Act, 1947 that a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

Section 3 of 18 provides that the settlement arrived at in the course of conciliation proceedings under the Act or an arbitration award where a notification has been issued U/s 3 (a) of Section 10(a). All parties referred in Clause (a)

or clause (b) and the heirs and successors assigns of employer and the employees are bound. The settlement dated 05-11-1971 is not a settlement under conciliation proceedings so the parties to the settlement are bound. The PNB is not a party to this settlement so the party is not bound by the settlement dated 05-11-1971 and it shall not be deemed that PNB has provided space and furniture to the claimant union. That settlement was arrived at by the claimant union and the management of ENBI so ENBI is bound by that settlement. There is merger of ENBI and PNB. The legal entity of the ENBI has merged in the Punjab National Bank and the claimant union has been re-designated as PNB Employees Union. The settlement referred to above is not binding on the respondent.

It was further submitted that it is admitted case that the settlement has not been arrived during the conciliation proceedings so only the parties to the settlement are bound by it.

It was further submitted that the claimant union cannot have any benefit of settlement dated 05-11-1971 and even it cannot be enforced by a court of law.

My attention in this connection was drawn to 1978 (II) LLJ page 22, 1964 (I) LLJ page 253, 1961 (1) LLJ page 244, 1975 (1) LLJ page 163, 1981 (42) FLR page 215, 1991 (1) LLJ page 46 and 1997 (1) LLJ page 308.

It has been held in these cases that settlement may arise out of conciliation proceedings and it may be an agreement between two parties. In case a settlement arises and is notified out of conciliation proceedings and the parties named in the conciliation proceedings and their heirs and successors and assigns are bound by the conciliation settlement.

In the instant case the settlement has been reached between the ENBI and the claimant union so it is enforceable u/s 18(1) of the ID Act, 1947 against the parties to the settlement. It is true that the respondent are not bound by the settlement as they are not signatory to that settlement.

It is settled law that a memorandum or agreement binds only to the parties, signatories to it and not the ailens.

It was further submitted from the side of the claimant union that settlement dated 05-11-1971 has been given effect to in the amalgamation scheme of 04-09-1993.

It was submitted from the side of the claimants that ENBI was merged in PNB by Act of 1980 and the respondents are governed by Clause - V of the amalgamation scheme dated 04-09-1993. Clause - V of amalgamation scheme dated 04-09-1993 is extracted hereunder :

CLAUSE 5 OF THE AMALGAMATION SCHEME DATED 04-09-1993

"Unless otherwise expressly provided by this scheme, all contracts, deeds, bonds, agreements, powers of attorneys, grants of legal representations and other instruments of whatever nature subsisting or having affect, immediately before the commencement of scheme and to which the transferor bank is a party or which are in favour of transferor bank shall be of full force and affect against or in favour of transferee bank and may be enforced and acted upon as fully and effectively as in the place of the transferor bank the transferee bank had been a party thereto or as if they had been issued in favour of transferee bank."

It was submitted from the side of the claimant unions that Clause-5 of the amalgamation scheme dated 04-09-1993 is applicable in their case. Memorandum dated 05-11-1971 is an agreement between the ENBI and the claimant union. It has been provided in Clause - V that all contracts, deeds, bonds, agreements, power of attorney etc. shall be of full force and effect against or in favour of transferee bank and may be enforced and acted upon as fully and effectively as in the case of transferor bank. The transferee bank shall be deemed a party to Clause-5.

It was further submitted that the transferee bank i.e. PNB will become a transferor so far as the agreement between the ENBI and claimant union is concerned. The ENBI has entered into memorandum dated 05-11-1971 and that agreement can be enforced and acted upon as fully and effectively as in the place of the transferee bank. The contention is that the transferee bank has entered into an agreement dated 05-11-1971 and it has been provided that all the settlements will be enforceable against the transferee bank also. So Clause - II of Para - I of settlement dated 05.11.1971 can be acted upon as fully and effectively as against transferor bank.

It implies that the transferee bank has stepped into the shoes of the transferor bank so far as contracts, deeds, bonds, agreement etc. are concerned.

The respondents are not party to the settlement dated 05-11-1971 but they shall be deemed to be parties to the same in view of Clause - V of the amalgamation scheme dated 04-09-1993. The contention of the claimant union is sustainable.

It was submitted from the side of the management that Section 12 (2) of the Act of 1980 *inter alia* provides that the terms and conditions of service of the employees of the respondent bank can be duly altered by the corresponding bank. The Section reads as under :

"Save as otherwise provided in sub-section 1, every officer or other employee of the existing bank shall become on the commencement of this Act, an officer or other employee, as the case may be, of the corresponding New Bank and shall hold his office of service in that bank on the same terms and conditions and on the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking of the existing bank had not been transferred to and vested in the corresponding New Bank and continue to do so unless and until his employment in the corresponding new bank is terminated or until his remuneration, terms and conditions are duly

altered by the corresponding new Section 12 (2) of the Act, 1980 extracted above is in addition to Clause-V of amalgamation scheme dated 04.09.1993. This proviso is regarding the service conditions of the employees regarding their pension, gratuity and other matters. The erstwhile employees ENBI shall be deemed to be the employees of the respondent bank and service rules regarding the employees of the PNB will be enforceable. So Section 12 (2) of the Act does not infringe or contravene Clause-V of amalgamation scheme of 4-9-1993. The contention of the respondent are misconceived in this regard. Clause-V of the said scheme makes all deeds and agreements enforceable as effectively and as fully as if PNB were a party to the deeds and settlements. The liability of the deeds and settlements have been imposed on the transferee bank by Clause-V of amalgamation scheme of 4-9-1993.

It was further submitted from the side of the management that there is no such tradition or rule to provide premises to the unions in PNB. The claimant union is not a recognised union in the PNB. The PNB does not provide any space or furniture to its unions. So it cannot provide space and furniture to this union.

It was further submitted that in the scheme of amalgamation there is no provision that the existing union in the ENBI will retain this character and it shall be treated to be the union of PNB. No such provision has been brought in my notice. In case there is settlement in the amalgamation scheme that all the unions of ENBI will continue as the union of PNB then only the claimant union can take the help of settlement of 1971 with ENBI.

It was further submitted from the side of the claimant union that it has been held in 1988 Lab IC 633 by the Hon'ble Supreme Court that settlement entered into between the employees of transferee bank and its management would be transmitted and vested on transferee bank inview of the amalgamation scheme.

This case law is not applicable as in the instant dispute there is no settlement between the employees and the management. This case is applicable to the employees of ENBI and not the union.

It was submitted from the side of the management that section 12(2) of Act, 1980 reads as hereunder:

> "Save as otherwise provided in sub-section 1, every officer or other employee of the existing bank shall become on the commencement of this Act, an officer or other employee, as the case may be, of the corresponding New Bank and shall hold his office of service in that bank on the same terms and conditions and on the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking of the existing bank had not been transferred to and vested in the corresponding New Bank and continue to do so unless and until his employment in the corresponding New Bank is terminated or until his remuneration, terms and conditions are duly altered by the corresponding New Bank."

It was submitted that in Clause-V of the scheme of amalgamation there is provision for enforecement of settlement, deeds etc. but in Act, 1980 section 12(2) provides the terms and conditions of the services of the employees, officers and the employees of the ENBI. The employees of the ENBI shall be deemed to be the employees of the transferee bank on commencement of Act, 1980 regarding merger of ENBI with PNB.

It was submitted from the side of the management that the claimant union has not pointed to any para which lays down any rule of continuance of the union of ENBI and facilities provided to them by the ENBI. After merger of the ENBI with PNB the claimant union of ENBI lost its *locus standi* and entity in PNB. There is no provision for retaining the union of ENBI. It is true that the claimant union have not pointed to any para which mentions their *locus standi* and retention of the premises occupied by them as facilities provided to them by the ENBI in the amalgamation scheme.

It was further submitted that the unions of the PNB get no facilities and space and furniture and if the erstwhile union of ENBI are permitted to retain the space and furniture there will be disharmony and peace will be disturbed. There is no rule for providing accommodation to the union of PNB and the respondent cannot permit them to retain the facilities if it is not available to the union of the PNB prior to the merger of ENBI. The respondent management has every right to de-recognize the union in case there is no provision for its continuance after merger.

It was further submitted that there are rival unions and every union cannot be provided space and furniture in the PNB. The claimant union cannot automatically become the union of the PNB for the simple fact that all the employees of ENBI have been absorbed in PNB. The contention of the management is sustainable but the management should issue notice to the claimant union for vacating the space occupied by them as it is not as per the rule to continue them. So long as the claimant union remains a union of PNB it can retain possession of the premises allotted to it in view of Para-I, Clause-II of settlement dated 5-11-1971. In the absence of de-recognition or notice for de-recognition the union of erstwhile ENBI are governed by settlement dated 5-11-1971 and that settlement is enforceable.

It was further submitted from the side of the management that if space and furniture is allotted to every union there may be as many claimant union as is the number of employees. The unions have been created in view of the constitutional provision of participation of workman in an industry, but the management on the basis of majority can recognise anyone or two unions. It is of course true that it is not possible to provide space and furniture for all the unions. The management is at liberty to curtail the number

of unions by de-recognising all the unions and ask them to prove their majority. If there is no rule the respondent cannot be bound to provide space and furniture for the unions. The existence of the union is essential to safeguard the interest of the workmen but the space is to be provided according to rules in this respect. No such letter has been filed before me to show as to under what circumstance the respondent bank has taken action for eviction of the claimant union. The respondent bank no doubt deals with public money and the public money should not be drained by way of providing space and furniture to the unions. The unions are created for safeguarding the interest of the workmen, the workmen subscribe to them. The union can afford space and furniture for themselves on the subscription paid to them by employees.

It becomes quite obvious from the above that the respondents are bound by para -I of Clause I of settlement dated 05-11-1971 in view of clause V of amalgamation scheme dated 04.09.1993 in case in amalgamation scheme there is provision for recognition of all the unions of ENBI as union of PNB.

Point No. 2

It was submitted from the side of the management that the present claim is not an Industrial Dispute in view of definition defined in section 2 (k) of the I.D. Act, 1947. Section 2(k) reads as hereunder :

> "Industrial Dispute means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the condition of labour, of any person."

It was submitted from the side of the management that the industrial dispute as defined in section 2 (k) means any dispute or difference between the employer and workman, which is connected with the employment or non-employment or terms of employment or the condition of labour of any workman. Admittedly the present claim of the Federation does not relate to and/is connected with the employment or non-employment or terms of employment or with the condition of labour. It relates to the facility alleged to have been granted to the Federation by the management of erstwhile NBI.

Therefore, the present claim made by the Federation cannot be treated as Industrial Dispute as defined in Section 2 (k) of the I.D. Act, 1947.

The mere stand taken by the management before the Civil Court or High Court or the consent of the parties will not confer jurisdiction on the Labour Court/Tribunal if the Labour Courts/Tribunals do not have jurisdiction to entertain the matter in accordance with law or the matter referred for adjudication by the appropriate Government is not an Industrial Dispute under the provisions of I.D. Act, 1947.

My attention was drawn to 1992 (64) FLR 827-Bombay High Court. The Hon'ble Bombay High Court has held as under:

> "If what is referred to a Tribunal /Labour Court is not an Industrial Dispute, it is always open to the parties to show to the forum that the dispute referred for adjudication, though purported to be an industrial dispute is in reality not an industrial dispute at all. This has always been recognised as an exception to the general rule postulated in Section 10(4). It is, therefore, always permissible for an employer to raise an issue as to whether what has been referred in an industrial dispute at all and there can be no question of the Tribunal being bound by the order of reference. It is settled law that appropriate Government makes a reference upon a *prima-facie* view of the matter as to the existence or apprehension of an industrial dispute, it is open to the parties to show that what is referred is not in reality not an industrial dispute at all.

My attention was further drawn to—Raja Lai *Versus* Union of India [2002-(II) LLJ 748 Patna High Court] - The Hon'ble High Court of Patna in the above matter has *inter alia* held as under :

> "Whether the question referred to the industrial tribunal is or not an industrial dispute as defined in Section 2(k) of the Industrial Dispute Act will, in fact have to be decided by the Industrial Tribunal after hearing the parties. The petitioner certainly would be entitled to submit before the said Tribunal that the question referred is not in Industrial Dispute. ....."

My attention was further drawn to - Newspapers Ltd. *Versus* Industrial Tribunal UP and others (1957) (1) Volume I LLJ page 1 - Hon'ble Supreme Court.

The Hon'ble Supreme Court in the above matter has *inter alia* held as under :

> "Inspite of the fact that the making of a reference by the government under Industrial Disputes Act is the exercise of its administrative power, that is not destructive of the rights of an agreed party to show that what was referred was not an "Industrial Dispute" at all and therefore the jurisdiction of Industrial Tribunal to make the award can be questioned, even though the factual existence of a dispute may not be subject to an party's challenge."

It was further contended that the controversy in the present case is not employment or non-employment, dismissal or discharge or any punishment. The subject matter involved is the entitlement of the claimants to continuous possession of the premises provided to them by the ENBI in view of memorandum dated 05-11-1971. The subject matter of the present dispute is regarding the facilities provided to the All India Employees Union of NBI and the Delhi State Union NBI regarding space and furniture and the other facilities.

It was further submitted that it is for the Tribunal/ Court to decide whether the dispute referred to purported to be an Industrial Dispute is in reality an Industrial Dispute or not. The employer can raise such question and the Tribunal is not bound by the order of reference. The appropriate government makes a reference on a *prima-facie* view of the matter as to existence or apprehension of an Industrial Dispute and the employer can raise the question that the dispute referred to is not an Industrial Dispute.

It was further submitted that the jurisdiction of Industrial Tribunal to give award in view of the reference can be questioned in case the dispute referred to by the appropriate government is not an Industrial Dispute.

It was further submitted that Section 2 (k) specifically mentions comprehensively the disputes, which can be treated to be an Industrial Dispute. A dispute between the employer and the employees is an Industrial Dispute but in the instant case a dispute is not between the employer and the employer. This is not a dispute between the employer and the workman or between workman and workman. It is not a dispute in respect of employment or non-employment or the terms of employment or with the conditions of labour of any person. It is dispute regarding the entitlement of the claimant union to entitlement of their possession over the space and furniture provided by the erstwhile NBI. So the dispute relates to property matter and settlement between the employer and the union. It is not a dispute regarding employment and non-employment or terms of employment.

It was further submitted that only those dispute can be referred as industrial dispute which come under the purview and domain of the definition of the industrial dispute. The dispute relates to deeds and settlements and only Civil Court has got jurisdiction to declare the validity or otherwise of deeds and settlements. The appropriate government has not referred the matter whether Clause - II of Para-I of 05-11-1971 is valid and enforceable and whether the PNB is bound by settlement dated 05-11-1971 entered between the NBI and Employees Federation.

The dispute referred to for adjudication is whether continued possesion of the premises by the claimant no. 1 and 2 is legal and justified. So far as Industrial Dispute is concerned it has been comprehensively defined under Section 2(k) and 2(A) of the I.D. Act and it has nowhere been specifically mentioned that a dispute regarding the right of a union is an industrial dispute. Section 11(A) of the I.D. Act stipulates power of Labour Courts/Tribunals and National Tribunals. It has been specifically provided in 11(A) that where an industrial dispute relating to the discharge or dismissal of a workman has been referred to Labour Court, Tribunal or National Tribunal for adjudication..... the Labour Court by its award can set aside the order of discharge or dismissal and direct reinstatement. In this section also there is mention of relief to be given to the workmen.

It was submitted from the side of the management that the dispute referred to is not an industrial dispute and the inherent jurisdiction of this Tribunal has been challenged. It becomes quite obvious from the law cited above that the appropriate government makes reference ex-facie and the jurisdiction of the Tribunal can be challenged. This Tribunal derives its jurisdiction from statute by which it has been created and the statute imposes condition under which it can function. This Tribunal cannot assume jurisdiction in the matter of a case of civil nature.

It was further submitted that the dispute referred to by the appropriate government is dispute of civil nature. The Tribunal has to decide the right of the claimant union for continued possession of the premises and enforcement thereof. So the Tribunal has to decide the right of the claimant union regarding occupation of the premises given to them by the ENBI.

It was further submitted that it has been provided in Section 9 that a Civil Court has jurisdiction to try all suits of civil nature unless they are barred. It has been held in a number of cases that so far as dismissal, discharge, retirement or any punitive order in relation to the service of a workman has been passed by the employer, the Industrial Tribunal alone will have jurisdiction in such matters but in the instant case the dispute referred to is neither in respect of employment or non-employment of a workman or any punitive order passed by the management malafidely.

Section 2(A) of the I.D. Act stipulates regarding individual industrial dispute. In 2 (k) and 2 (A) there is no mention of dispute regarding the right of a union for possession of particular premises.

It was further submitted that the instant reference casts an obligation on the Court to exercise jurisdiction for enforcement of a right based on settlement and contract and the civil court is the appropriate forum.

It was further submitted that the claimant unions have referred to Clause-II, Para-I of the memorandum dated 05-11-1971 so they want to enforce the right under an agreement entered into between the claimant union and the ENBI. So the question involved is enforcement of right based on an agreement or contract. Such agreements or contracts are enforceable in a court of law.

It has been held in (1976) 1 SCC that if a dispute is not an industrial dispute nor does it relate to enforcement of any right under the Act the remedy lies only in Civil Court. It has been further held in this case that if a dispute is an industrial dispute arising out of right or liability under the general and common law and not under the Act, the jurisdiction of Civil Court is alternative leaving it to election of suitor or person concerned to choose his remedy for the relief which is competent to be granted in a particular remedy. It becomes quite obvious that the dispute referred to is not an industrial dispute in view of definition of 2(k) and 2(A) of the I.D. Act. As such the remedy lies only in Civil Court.

The dispute in the instant reference has arisen from the general law of contract. The claimants have claimed relief on the basis of contract of Para - I Clause - II. So the dispute referred to is not an industrial dispute.

It was submitted from the side of the management that the union represents the workmen and is a representative body or entity for safeguarding the interest of the workmen. So this Tribunal has jurisdiction to decide this case.

It was submitted from the side of the management that in the instant case the claimant unions are seeking declaration regarding the legality, validity and justifiability of their continued possession. So a declaratory decree has been sought for. The claimants want direction of a mandatory nature.

My attention was drawn by the management to 19(3) of the ID Act, 1947. This section stipulates that an award, shall subject to the provisions of the section, remain in operation for a period of one year from the date of which the award becomes enforceable under section 17(a).

It has been further provided in section that the appropriate Government can extend the period of operation of the award by any period not exceeding one year at a time as it thinks fit. However, the total period of operation of any award does not exceed three years from the date of which it came into operation. This Tribunal has to give award and the award will remain valid only for three years at the maximum. If it is declared that the continued possession of the claimant union is legal and justified this declaration/award will remain operative for a period of one year and for a period of three years in case the operation is extended by the appropriate Government. The purposes of the parties will not be solved by such an award as its life is for three years at the maximum.

It was further submitted from the side of the management that the claimants want to retain the possession of the premises allotted to them by ENBI so they should have approached Civil Court for perpetual prohibiting decree or a declaratory decree and it shall be binding on both the parties.

It was further submitted from the side of the claimant unions that they approached the Civil Court but the Civil Court found that it has no jurisdiction to adjudicate upon the matter. They approached the Hon'ble High Court in Writ Jurisdiction. The matter relates to Industrial Disputes Act so it should be referred to the appropriate Government for reference.

There is no decision of the Hon'ble High Court regarding jurisdiction. The parties agreed that the matter be referred to a forum under Industrial Disputes Act. So there is no finding of the Hon'ble High Court regarding jurisdiction. An agreement between the parties cannot create inherent jurisdiction and it cannot take away such jurisdiction. Inherent jurisdiction cannot be conferred by compromise and it cannot be taken away by any compromise. It is not to the will of the parties to create jurisdiction. They should approach a forum, which has jurisdiction to adjudicate upon the subject matter. It is settled law that jurisdiction is decided takeing into consideration the subject matter and not the parties. The parties in the instant case are respondent bank and the claimant unions but the subject matter is regarding possession of premises allotted by the ENBI under agreement dated 5-11-1971.

From the above discussions it becomes quite obvious that the relief sought is regarding declaration and such relief cannot be given in view of Section 11(A). This Court/ Tribunal lacks inherent jurisdiction. This issue is decided accordingly.

Point No. 3:

This point is regarding dispute between the parties under the provisions of Public Premises (Eviction of Authorized Occupants) Act, 1971. The claimant union has not been de-recognized so it cannot be said that the claimant union is an authorized occupant. The respondents have not initiated any action for ascertaining the validity or otherwise of the claimant union on the basis of representation of the workmen. No documents have been filed regarding the status of the claimant. The claimant unions have not pointed to any para of amalgamation scheme that they will continue to function a separate union after the merger of ENBI in PNB. In case there is provision of their continuance after merger in the PNB as separate legal union, and their entity is continued even after merger, they cannot be considered unauthorised occupants. In case their separate entity is lost after merger they cannot avail themselves of the facility as provided under settlement of 1971 and in that case the possession of the claimant could be illegal. Issue No.3 is decided accordingly.

The reference is replied thus :

> This Court/Tribunal has no jurisdiction to decide the claim of All India New Bank of India Employees' Federation (AINBIEF) and New Bank of India Employees' Union (NBIEU), Delhi for continued possession of union office premises allotted by the erstwhile New Bank of India (ENBI) at B.O: L- Block, Connaught Circus, New Delhi and at Rajendra Bhawan, Rajendra Place, New Delhi after the amalgamation of ENBI with the management of Punjab National Bank vide notification dated 04-09-1993 as it is regarding the entitlement of premises of PNB and not regarding the employment, non-employment, discharge, dismissal or any punitive order passed against a workman.

Award is given accordingly.

Date : 25-05-2006. R. N. RAI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स आई. आई. एस. सी ओ. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 29/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-22012/220/2001-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IISCO Ltd. and their workmen, which was received by the Central Government on 2-6-2006.

[No. L-22012/220/2001-IR (C. II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer

Reference No. 29 of 2003

PARTIES:

Managing Director, M/s. IISCO Ltd., Burnpur

Vs.

Secretary, IISCO Colliery Mazdoor Sangharsh Samity, Chasnala, Dhanbad, Jharkhand

REPRESENTATIVES:

For the Management	:	None
For the Union (Workman)	:	Shri Surender Lal Mahato, Secretary, IISCO Colliery Mazdoor Sangharsh Samity, Chasnala

Industry: Coal **State:** West Bengal

Dated the 12-05-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/220/2001/IR-(C-II) dated 23-07-2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Chasnala Colliery and Ramnagar Colliey (W. B.) of M/s. IISCO Ltd., Burnpur is justified in not paying arrear of Interim Relief of the workers employed in the above coal mines from July 1996 to May 1998 (23 months), not paying LTC/LLTC for the block year 1999-2002 and not employing dependents of the employee/ workmen who died in harness as per National Coal Wage Agreement ? If not, to what relief the workmen are entitled ?"

Having received the Order No. L-22012/220/2001-IR(C-II) dated 23-7-2003 of the said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 29 of 2003 was registered on 1-10-2003/27-5-2004 and an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court and file their written statements along with the documents and list of witnesses in support of their case. Pursuant to the notices issued Sri Surender Lal Mahato, Secretary of the union appeared in the court on 25-06-04 and prayed for time to file written statement on his behalf which was allowed fixing next date 10-09-04 for the same.

From the perusal of the records it transpires that the union left taking any step on its behalf since 10-9-04. Several adjournments and opportunities were given to the union to appear and take suitable step on its behalf but to no effect. The record goes to show that the union has been regularly absent and has not yet filed its written statement as well. So in the present facts and circumstances it is not just and proper to keep the record pending any more as the union has lost its interest and there is no chance of its appearances in the court in the near future. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 10/2000)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-22012/354/1999-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E. C. L. and their workmen, which was received by the Central Government on 2-06-2006.

[No. L-22012/354/1999-IR (C.II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer

Reference No. 10 of 2000

PARTIES:

Agent, Kalipahari (R) Colliery, ECL, Kalipahari, Burdwan

Vs.

Organising Secretary, Colliery Mazdoor Sabha, Asansol

REPRESENTATIVES:

For the Management	: Sri P. K. Goswami, Advocate
For the Union (Workman)	: Shri N. Ganguly, Advocate

Industry : Coal **State : West Bengal**

Dated the 17-05-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/354/99/IR-(CM-II) dated 31-1-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Ratibati (R) Colliery under ECL in changing the service conditions of Ambulance Driver, T. T. Driver, D. S. Operator in the Under Ground Time Rated category without consent is justified ? If not, to what relief these workmen are entitled ?

On having received the Order No. L-22012/354/99-IR(CM-II) dated 31-1-2000 of the aforesaid reference from the Ministry of Labour, Govt. of India, New Delhi for the adjudication of the dispute a reference Case No. 10 of 2000 was registered on 11-10-01 and an order was passed to issue notices to the respective parties through the registered post with A/D directing them to appear in the court and file their Written Statement along with their documents with a list of witnesses in support of their case. Pursuant to the notices issued Sri P. K. Goswami, Advocate for the management and Sri N. Ganguly, Advocate for the union appeared and filed their Written Statement in support of their claims respectively.

From perusal of the records it transpires that the learned lawyer for the union left taking any step on behalf of the union since 31-12-04. The record further directs that several opportunities and adjournments were granted to the union for taking suitable step on its behalf but none turned up to represent the union. It appears that the union had lost its interest and it does not want to proceed with the case any further. In such circumstances it is not proper and advisable to keep the reference pending any more as there is no hope or chance of appearance of the union in near future. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 02/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-22012/276/1992-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/1993) of the Central Government Industrial Tribunal-cum-Labour

Court, Asansol now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B. C. C. L. and their workmen, which was received by the Central Government on 2-06-2006.

[No. L-22012/276/92-IR (C. II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 2 of 1993

PARTIES:

The Agent, Damagoria Colliery of M/s. B.C. C. L.

Vrs.

Branch Secretary, Janta Mazdoor Sangh, Damagoria Colliery.

REPRESENTATIVES:

For the Management : Sri P. K. Das, Advocate.

For the Union (Workman) : Shri Subhas Kr. Singh, Branch Secretary, Janta Mazdoor Sangh, Damagoria Colliery.

Industry : Coal **State :** West Bengal

Dated the 18-05-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/276/92/IR-(C-II) dated 28-12-92 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Damagoria Colliery in not giving promotion to Md. Iman Ali to Gr. A from Gr. B having the eligibility for promotion to Sr. Mechanic Gr. A is justified ? If not, to what relief is the workman entitled to ?"

After having received the Order No. L-22012/276/92-IR(C-II) dated 28-12-1992 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for the adjudication of the dispute raised, a reference Case No. 02 of 1993 was registered on 5-1-1993 and an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court and file their written statements along with the list of documents and their witnesses in support of their claims. Pursuant to the notices issued Sri C. D. Diwedi, Advocate for the union and Sri N. P. Singh, Dy. P. M. for the side of the management appeared in the court along with the letter of authority on 22-1-93 and prayed for time to file their written statements which was allowed. It is further clear from the record that the written statements were subsequently filed by the side of both the parties which were kept on the record.

From the perusal of the records it transpires that today was the date fixed for appearance of the parties. An application has been filed by Sri Subhas Kr. Singh, Branch Secretary, Damagoria Colliery mentioning therein that the union is not interested to continue the dispute raised earlier and further prayed that a "No Dispute Award" be passed.

In the present facts circumstances and prayer made by the union it is not just and proper to continue and keep the record pending. Accordingly it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्ज ई. सी. एल., बन्कोला एरिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 05/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-22012/163/2001-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E. C. L. Benkola Area and their workmen, which was received by the Central Government on 2-6-2006.

[No. L-22012/163/2001-IR (C. II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 05 of 2003

PARTIES:

Manager, Bankola Area of M/s. E. C. L.

Versus

Secretary, Coal Mines Workers' Union (AICCTU), Ukhra, Burdwan.

REPRESENTATIVES:

For the Management : Sri P. K. Das, Advocate.

For the Union (Workman) : None

Industry : Coal **State :** West Bengal

Dated the 17-05-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/163/2001/IR-(CM-II) dated 19-2-2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Bankola Colliery of Bankola Area of M/s. Eastern Coalfields Ltd. by distributing fuel coal @ four baskets per month to 992 Employees and @ six baskets per month to 1507 employees of Bankola Colliery, and not maintaining uniformity is legal and justified ? If not, to what relief the workmen are entitled ?"

After having received the Order No. L-22012/163/2001-IR(CM-II) dated 10-2-2003 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute a reference Case No. 05 of 2003 was registered and accordingly an order was passed to issue notices to the respective parties through the registered post directing them to appear and file their written statements along with the documents and the list of the witnesses in support of their claims. Pursuant to the said order registered notices were issued to both the parties.

From the perusal of the records it transpires that Sri P. K. Das, Advocate after having received the registered notice issued, appeared in the court with a letter of authority issued by the side of the management on 28-6-04. The record further goes to show that the registered notice issued to the union was duly served and received by the secretary of the union which is apparent from the endorsement of the secretary of union on the A/D card. The order sheets of the record indicates that several adjournments were given for the appearance of the union since 28-6-04 but till today none turned up to represent the union. It appears that the union has lost its interest and does not want to proceed with the case further. As such in the present facts and circumstances of the case it is not advisable to keep the reference pending any more as no useful purpose is to be served. Accordingly it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाला राम सरूप इंस्टीट्यूट ऑफ टी. बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, नई दिल्ली के पंचाट (संदर्भ संख्या 74/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/47/2002-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2002) of the Central Government Industrial Tribunal/Labour Court-I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lala Ram Sarup Institute of T. B. and their workmen, which was received by the Central Government on 2-6-2006.

[No. L-42012/47/2002-IR(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

I. D. No. 74/2002

In the matter of dispute between :

Shri Babu Lal,
C/o Poram Chand Verma,
C-63, Gali No. 2,
Bhajanpura, Delhi,
New Delhi-110053. ... Workman

Versus

The Director,
Lala Ramsarup Institute of T. B.,
And Allied Disease,
Sh. Aurobindo Marg, New Delhi,
New Delhi-110030. ... Management

APPEARANCES :

None.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/47/2002 IR (CM-II) dated 21-8-2002 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Lala Ram Sarup Institute of T. B. and Allied Diseases, Shri Aurobindo Marg, New Delhi in terminating the services of Shri Babu Ram Ex-Sweeper, with effect from 22-10-1996 is justified and legal ? If not, what relief the workman is entitled to and from which date."

After receipt of reference notices were issued to the parties and the case was fixed for filing claim statement on 11-12-02, 15-1-03, 24-3-03 and 29-5-03 when the claim statement alongwith death certificate with affidavit of Shri Mukesh Kumar son of deceased workman was filed and for reply the case was adjourned to 4-9-03. The management filed written statement on 26-4-04 and for rejoinder case was adjourned to 20-7-04. Rejoinder was filed on 5-10-04 and case was adjourned to 21-12-04 for admission denial and issues. In this case the workman expired and his wife has been appearing and she last appeared on 24-8-05 and was directed to bring the L. Rs. of the deceased workman on record and thereafter she did not appear on the subsequent hearings on 26-10-05, 26-12-05, 2-3-06 and today on 15-5-06. Thus no efforts are being made for bringing the L. Rs. of the workman on record and it shows that they are not taking interest in the prosecution of the case. Hence A No Dispute Award is accordingly passed.

Dated : 15-5-06

S. S. BAL, Presiding Officer

नई दिल्ली, 2 जून, 2006.

का. आ. 2429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. सी. एल. सिंघरौली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 36/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-06 को प्राप्त हुआ था।

[सं. एल-22012/63/2001-आई आर (सी एम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/02) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N. C. L., Singrauli and their workmen, which was received by the Central Government on 1-6-06.

[No. L-22012/63/2001-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/36/02

Shri C. M. Singh, Presiding Officer

The Vice-President,
R. C. W. F., P. O. Singrauli,
Distt. Sidhi (M. P.),
Sidhi (M. P.). ... Workman/Union

Versus

The Chief General Manager (P & C),
Singrauli Area of NCL,
P. O. Singrauli, Distt. Sidhi (M. P.),
Sidhi (M. P.). ... Management

AWARD

(Passed on this 23rd day of May, 2006)

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/63/2001-IR (CM-II) dated

21-2-02 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the Chief General Manager (P & C), Singrauli Area of NCL, P. O. Singrauli, Distt. Shahdol (M. P.) in not providing employment to Shri Ramji Kewat the dependent son-in-law of Late Chhotelal Kewat of Gorbi Project, who expired on 27-4-99 is legal and justified ? If not, to what relief, Shri Ramji Kewat is entitled to ?"

2. After the reference order was received, it was duly registered on 14-3-02 and the notices were issued to the parties to file their respective statements of claim. The workman/Union inspite of sufficient service of notice on them failed to put in appearance and therefore this reference proceeded ex parte against the workman/Union. The management filed its Written Statement.

3. The case of management in brief is as follows : The workman is the son-in-law of Late Chhotelal Kewat. He has claimed employment with the management on compassionate ground that Late Chhotelal Kewat, an employee of Gorbi Project expired on 27-4-99. Shri Chhotelal Kewat was working as Driver in Gorbi Project of NCL who died a natural death on 27-4-99 during his service period. As per provisions of clause 9.3.0 of NCWA-VI, Smt. Dhanmati was offered dependent employment. However she did not come forward claiming employment on compassionate ground. That the management received claim of the claimant Shri Ramji Kewat who claiming himself to be the son-in-law of late Shri Chhotelal Kewat to provide him compassionate employment due to death of late Chhotelal Kewat. As per provisions of compassionate appointment, no indirect dependent is entitled for employment. That in the instant case, Smt. Dhanmati, widow of late Chhotelal Kewat is alive. She did not come forward claiming compassionate appointment. Since there is a direct dependent Smt. Dhanmati, the widow of late Shri Chhotelal, Shri Ramji Kewat claims to be son-in-law of the deceased workman is not direct dependent and therefore he is not entitled for employment. The benefit of monetary compassionate compensation has already been granted to Smt. Dhanmati, wife of late Shri Chhotelal Kewat in lieu of dependent employment. It is requested that the claim of the workman be dismissed.

4. In support of their case, the management filed affidavit of Shri Nandlal, the then working as Personnel Manager in Gorbi Project of NCL.

5. I have heard Shri A. K. Shashi, Advocate for the management. I have very carefully gone through the evidence on record.

6. The case of management is fully proved from the uncontroverted affidavit of Shri Nandlal, the then working as Personnel Manager in Gorbi Project of NCL. Against the above as the reference proceeded ex parte against the workman there is no evidence on record to prove the case of the workman. I, therefore, hold that the action of Chief General Manager (P & C) Singrauli Area of NCL, PO Singrauli, Distt. Shahdol (M. P.) in not providing employment to Shri Ramji Kewat, the dependent son-in-law of Late Chhotelal Kewat of Gorbi Project who expired on 27-4-99 is legal and justified and the workman is not entitled to any relief.

7. Consequently the reference is answered in favour of the management and against the workman holding that the action of the General Manager (P & C), Singrauli Area of NCL, P.O. Singrauli, Distt. Shahdol (M.P.) in not providing employment to Shri Ramji Kewat, the dependent son-in-law of Late Chhotelal Kewat of Gorbi Project who expired on 27-4-99 is legal and justified and workman Shri Ramji Kewat is not entitled to any relief. The parties shall bear their own costs of this reference.

8. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. सी. एल. अमलोहारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 304/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-06 को प्राप्त हुआ था।

[सं. एल-22012/248/96-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 304/97) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N. C. L., Amlohari and their workmen, which was received by the Central Government on 1-6-06.

[No. L-22012/248/96-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/304/97

Shri C. M. Singh, Presiding Officer

The Secretary,
Koyla Shramik Sabha (HMS),
Qr. No. 627,
Post-Amlohari Colliery,
Distt. Sidhi (M.P.). ... Workman/Union

Versus

The General Manager,
Amlohari Project of NCL,
P. O. Amlohari Colliery,
Distt. Sidhi (M. P.). ... Management

AWARD

Passed on this 24th day of May, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/248/96-IR (CM-II) dated 27-10-97 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the management of Amlohari Project of NCL in denying to promote Sh. Indramani Singh, Dumper Operator Grade-II as Dumper Operator Grade-I alongwith 26 others who were promoted as Dumper Operators Grade-II along with him is legal and justified ? If not, to what relief, is the workman entitled and from which date ?"

2. After the reference order was received, it was duly registered on 17-11-97 and notices were issued to the parties to file their respective statements of claim. In spite of sufficient notice on workman/Union no body put in appearance for the workman and therefore vide order dated 1-6-05, it was ordered that the case shall proceed ex parte against workman. The management filed their Written statement and 18-5-06 was the date fixed for ex parte evidence of management at camp court, Singrauli. On this date, Shri A. K. Shashi, Advocate and Shri M. L. Das Personnel Manager appeared for the management. They submitted that the dispute has been settled out of court and the workman has been given promotion and since he has been given promotion now he is avoiding to appear before this tribunal. On this date, a settlement on Form-H has been filed by the management. This settlement has been duly verified before me by Shri M. L. Das Personnel Manager. He identified signatures of Shri P. P. Yadav, Staff Officer (Personnel), Shri N. P. Agnihotri, General Secretary, MPKMS(HMS), Singrauli and workman Shri Indramani Singh. Thus his settlement has been duly verified before me. The following are the terms of settlement :

1. श्री इन्द्रमणि सिंह को डम्पर आपरेटर ग्रेड-I (ग्रुप-बी) में पदोन्नति की प्रभावित तिथि 13-11-94 के बजाय इनके साथ के कर्मियों की प्रभावित तिथि 3-9-92 से एवं सीनियर डम्पर आपरेटर (ग्रुप-ए) पद में पदोन्नति की प्रभावित तिथि 25-3-02 के बजाय इनके साथ के कर्मियों की प्रभावित तिथि 2-11-98 से नोशनल सीनियोरिटी बिना आर्थिक लाभ के दिया जायेगा।

2. श्री इन्द्रमणि सिंह उक्त प्रकरण के संबंध में प्रबंधन से वर्तमान एवं भविष्य में भी और कोई व्यय एवं भुगतान/क्लेम आदि नहीं करेंगे।

3. औद्योगिक विवाद अधिनियम 1957 के नियम 58 सिड्यूल-1 में निर्धारित "फार्म-एच मेमोरेण्डम ऑफ सेटिलमेन्ट" में समझौता कर सी. जी. आई. टी. जबलपुर (म. प्र.) में लम्बित प्रकरण क्रमांक 304/97 श्री इन्द्रमणि सिंह, वरीय डम्पर आपरेटर एवं महामंत्री, एम. पी. के. एम. एस. (एच. एम. एस.) सिंगरौली द्वारा वापस ले लेंगे।

It is clear from the above that the industrial dispute has been settled between the parties by means of settlement deed on Form-H. The above terms of settlement are just, legal and proper. I am therefore of the considered opinion that the award be passed in terms of settlement and the parties should be directed to bear their own costs of this reference.

3. In view of the above, the award is passed in terms of settlement without any order as to costs.

4. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नारदर्न कोलफील्ड लिमिटेड, सिंगरौली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 111/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-22012/237/2002-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur. Now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Coalfields, Ltd. Singrauli and their workmen, which was received by the Central Government on 1-6-2006.

[No. L-22012/237/2002-IR(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/111/2003

Shri C.M. Singh, Presiding Officer

The Regional Secretary,
Koyla Shramik Sabha (HMS),
M-539, Bina Project,
Distt. Sonebhadra (UP)
Sonebhadra (UP) ... Workman/Union

Versus

The Chief General Manager,
Northern Coalfields Limited,
Singrauli Project of NCL,
PO Singrauli, Distt. Sidhi (MP) ... Management

AWARD

Passed on this 23rd day of May, 2006

1. The Government of India Ministry of Labour vide its Notification No. L-22012/237/2002-IR(CM-II) dated 9-6-2003 has referred the following dispute for adjudication by this tribunal :

> "Whether the action of the management of Northern Coalfields Limited, Singrauli Project of NCL in not promoting Sh. Dilshad Ahmed to the post of Sr. Dumper Operator Grade-A is legal and justified ? If not, to what relief is the workman entitled and from what date ?"

2. After the reference order was received, it was duly registered on 21-7-03 and notices were issued to the parties to file their respective statements of claim. In spite of sufficient service of notice on workman/union, no body put in appearance on behalf of workman/union. Therefore the case proceeded ex parte against workman/union. The management filed its Written Statement.

3. The case of the management in brief is as follows. That the terms of reference are vague. There is no mention as to from which date the workman has claimed promotion to the post of Sr. Dumper Operator. A vague reference is not legally maintainable. That promotion cannot be claimed as a matter of right. Granting promotion is a managerial function. Therefore the dispute raised claiming promotion to the post of Sr. Dumper Operator Grade-A is not maintainable. That workman Shri Dilshad Ahmed was initially appointed as Driver (Trainee) vide Officer Order No. GM/Nigahi/B-1/90/724 dated 9-3-90. He was selected to the post of Dumper Operator w.e.f. 29-5-91. He was regularised to the post of Dumper Operator Grade-II w.e.f. 29-5-92. He was again given promotion to the post of Dumper Operator Grade-I w.e.f. 29-5-94. That the service conditions of employees working in coal industry are governed by various settlements being executed from time to time and is generally known as NCWA. The said agreement contains job nomenclature, cadre scheme for each cadre of employees. Promotional channels. Selection for the post, Promotional Zone, the designation, scale of pay, minimum qualification (Educational/Technical), eligibility for promotion, mode of promotion etc. are given in the cadre scheme. Promotion is given as per cadre scheme. The cadre scheme is applicable to all the categories of workers. The promotion is given considering the recommendations of the DPC, eligibility of sanctioned post, administrative requirements etc. That in the year 2000, eligible employees to be considered for promotion to the post of Sr. Dumper Operator Grade-A was considered by the Departmental Promotion Committee. The said committee has considered the eligibility of eligible candidate including the workman. That the confidential report of the workman for the year 1997-98 was unsatisfactory. As the confidential report of the workman for the year 97-98 was unsatisfactory, the DPC did not recommend his name for promotion. That the adverse entries of Confidential Report were intimated to the workman vide office order No. CGM/Nigahi/2000 dated 9-9-2000 and he was advised to improve his conduct. The workman was not given promotion to the post of Sr. Dumper Operator Grade A due to the fact that his case was not recommended by the DPC. In view of the above it has been submitted by the management that the dispute raised by the workman through the Union Koyla Sharmik Sabha has no merit and hence the award is liable to be passed in favour of the management.

4. In support of their case, the management filed affidavit of Shri Arvind Kr. Ghosh, the then working as CGM in Nigahi Project of NCL.

5. I have heard Shri A.K. Shashi, Advocate for the management. I have very carefully gone through the evidence on record. The case of the management is fully established from the uncontroverted affidavit of Shri Arvind Kr. Ghosh, the then working as CGM in Nigahi Project of NCL. As the case proceeded ex parte against the workman, there is no evidence on behalf of workman to prove his case. Under the above circumstances, it is hereby held that the action of management of Northern Coalfields Limited, Singrauli Project of NCL in not promoting Shri Dilshad Ahmed to the post of Sr. Dumper Operator Grade-A is legal and justified and consequently he is not entitled to any relief. Considering the circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

6. In view of the above, the reference is answered in favour of the management and against the workman and it is hereby held that the action of the management of NCL in not promoting Shri Dilshad Ahmed to the post of Sr. Dumper Operator Grade-A is legal and justified and consequently the workman is not entitled to any relief. Parties shall bear their own costs of this reference.

7. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

Date : 23-5-06. C. M. SINGH, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 78/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/102/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2005) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.A.R.I. and their workman, which was received by the Central Government on 1-6-2006.

[No. L-42012/102/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 78/2005

R.N. Rai, Presiding Officer

IN THE MATTER OF:

The All India CPWD (MRM),
Karamchari Sangathan (Regd),
4823, Balbir Nagar Extension,
Gali No. 13, Shahadra,
New Delhi-110032.

Versus

The Director,
I.A.R.I.,
Pusa, New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/102/2004 IR (CM-II) Central Government Dt. 4-8-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the demand of the All India CPWD (MRM) Karamchari Sangathan for reinstatement/regularization of Shri Uma Shankar in the establishment of IARI, Pusa is legal and justified ? If yes, to what relief he is entitled."

It transpires from perusal of the order sheet that notice to the workman sent on 3-5-2006 for filing claim statement but the workman applicant has not turned up. Again notice was sent to the workman applicant for filing claim statement but he did not turn up despite notice. Management was present. The workman applicant has not filed claim statement despite service of notice.

No dispute award is given.

Date : 25-5-2006 R.N. RAI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 80/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/100/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/2005) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.A.R.I. and their workman, which was received by the Central Government on 1-6-2006.

[No. L-42012/100/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 80/2005

R.N. Rai, Presiding Officer

IN THE MATTER OF:

The All India CPWD (MRM),
Karamchari Sangathan (Regd),
4823, Balbir Nagar Extension,
Gali No. 13, Shahadra,
New Delhi-110032.

Versus

The Director,
I.A.R.I.,
Pusa, New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/100/2004 IR (CM-II) Central Government Dt. 4-8-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the demand of the All India CPWD (MRM) Karamchari Sangathan for reinstatement/regularization of Shri Mahadev in the establishment of IARI, Pusa is legal and justified ? If yes, to what relief he is entitled."

It transpires from perusal of the order sheet that notice to the workman was sent on 13-2-2006 for filing claim statement but the workman applicant has not turned up. Again notice was sent to the workman applicant for filing claim statement but he did not turn up despite notice. Management not present. The workman applicant has not filed claim statement despite service of notice.

No dispute award is given.

Date : 26-5-2006 R.N. RAI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 79/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/101/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2005) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.A.R.I. and their workman, which was received by the Central Government on 1-6-2006.

[No. L-42012/101/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 79/2005

R.N. Rai, Presiding Officer

IN THE MATTER OF:

The All India CPWD (MRM),
Karamchari Sangathan (Regd),
4823, Balbir Nagar Extension,
Gali No. 13, Shahadra,
New Delhi-110032.

Versus

The Director,
I.A.R.I.,
Pusa, New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/101/2004 IR (CM-II) Central Government Dt. 4-8-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the demand of the All India CPWD (MRM) Karamchari Sangathan for reinstatement/regularization of Shri Ram Chander in the establishment of IARI, Pusa is legal and justified ? If yes, to what relief he is entitled."

It transpires from perusal of the order sheet that notice to the workman was sent on 13-2-2006 for filing claim statement but the workman applicant has not turned up. Again notice was sent to the workman applicant for filing claim statement but he did not turn up despite notice. Management not present. The workman applicant has not filed claim statement despite service of notice.

No dispute award is given.

Date : 26-5-2006 R.N. RAI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 81/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/99/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/2005) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.A.R.I. and their workmen, which was received by the Central Government on 1-6-2006.

[No. L-42012/99/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 81/2005

R.N. Rai, Presiding Officer

IN THE MATTER OF:

The All India CPWD (MRM),
Karamchari Sangathan (Regd),
4823, Balbir Nagar Extension,
Gali No. 13, Shahdra,
New Delhi-110032.

Versus

The Director,
I.A.R.I.,
Pusa, New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/99/2004 IR (CM-II) Central Government Dt. 4-8-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the demand of the All India CPWD (MRM) Karamchari Sangathan for reinstatement/regularization of Shri Nagendra Kumar in the establishment of IARI. Pusa is legal and justified ? If yes, to what relief he is entitled."

It transpires from perusal of the order sheet that notice to the workman was sent on 13-2-2006 for filing claim statement but the workman applicant has not turned up. Again notice was sent to the workman applicant for filing claim statement but he did not turn up despite notice. Management not present. The workman applicant has not filed claim statement despite service of notice.

No dispute award is given.

Date : 26-5-2006. R.N. RAI, Presiding Officer

नई दिल्ली, 2 जून, 2006

का. आ. 2436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 67/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2006 को प्राप्त हुआ था।

[सं. एल-42012/182/2004-आई आर (सीएम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 2nd June, 2006

S.O. 2436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2005) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.A.R.I. and their workmen, which was received by the Central Government on 1-6-2006.

[No. L-42012/182/2004-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 67/2005

R.N. Rai, Presiding Officer

IN THE MATTER OF:

Shri Ram Pukar,
Trough All India CPWD (MRM),
Karamchari Sangathan,
4823, Balbir Nagar Extension,
Gali No. 13, Shahdra,
New Delhi-110032.

Versus

The Director,
I.A.R.I.,
Pusa, New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/182/2004 IR (C-II) Central Government Dt. 4-8-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the demand of the All India CPWD (MRM) Karmchari Sangathan in respect of reinstatement and regularization of the workman Shri Rampukar, S/o. Shri Bhajju in the establishment of IARI, Pusa, New Delhi is legal and justified ? If yes, to what relief the workman is entitled to and from which date."

From perusal of the order sheet it transpires that notice to both the parties have been sent. The management

was present. The workman was not present. Notice was again issued the workman did not appear. No claim statement has been filed.

No dispute award is given.

Date : 2-5-2006. R.N. RAI, Presiding Officer

नई दिल्ली, 5 जून, 2006

का. आ. 2437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-I, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी-34, 35, 36/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2006 को प्राप्त हुआ था।

[सं. एल-12012/117/80-आई आर (बी-I)
सं. एल-12012/297/81-आई आर (बी-I)
सं. एल-12012/298/81-आई आर (बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 5th June, 2006

S.O. 2437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D.-34, 35, 36/2004) of the Central Government Industrial Tribunal/Labour Court-No. I, New Delhi, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bnak of Patiala and their workmen, which was received by the Central Government on 2-6-2006.

[No. L-12012/117/80-IR (B-I)
No. L-12012/297/81-IR (B-I)
No. L-12012/298/81-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. I, NEW DELHI

I.D. No. 36/2004 (Old case No. 43/82)

Harish Bajpai son of
Dr. Purshotam Bajpai,
R/o 990, Block Y,
Kidwai Nagar,
Kanpur.

2. I.D. No. 34/2004 (Old case No. 19/83)

Shri Govind Ji Nigam, S/o
Late Shri Narayan Shankar Nigam,
R/o III A/48, Ashok Nagar,
Kanpur.

3. I.D. No. 35/2004 (Old case No. 20/83)

Shri Vinod Kumar Tiwari (deceased).
To be represented by :

1. Smt. Suman Tiwari widow of
Late Shri Vinod Kumar Tiwari.
2. Km. Shiva Tiwari D/o
Late Vinod Kumar Tiwari
3. Km. Shivangi Tiwari minor D/o
Late Shri Vinod Kumar Tiwari,
under the guardianship of her
mother, Smt. Suman Tiwari.
4. Briyank Tiwari (minor) S/o
Late Vinod Kumar Tiwari
under the guardianship of his
mother, Smt. Suman Tiwari.

Versus

Branch Manager,
State Bank of Patiala,
Gumti No. 5,
Kanpur (U.P.)

Substituted and impleaded as per order of Hon'ble High Court of Allahabad.

Appearences :

Shri Harish Bajpai inperson with his A/R Shri K.G. Tiwari
Shri Narinder Paul A/R management.

AWARD

By this award I shall dispose of three following Industrial disputes in references No. L-12012/117/80-D.II.A dated 24th March, 1981 in I.D. No. 43/81, No. L-12012(297)/81-D.II/A dated 29th July, 1982 in I.D. No. 19/83 and No. L-12012(298)/81-D.II(A) dated 8th July, 1982 in I.D. No. 20/83 forwarded by Ministry of Labour, Central Government which were consolidated by my learned Predecessor Shri O. P. Singla vide order dated 29-3-84 and reference in I.D. 43/81 Shri Harish Vajpai *Vs.* State Bank of Patiala was made the leading case which was assigned to Shri Mahesh Chandra, the Presiding Officer. The other two references in I.D. 19/83 and 20/83 were assiged to Shri O.P. Singla the then Presiding Officer of this court. All these references are mentioned below :

1. In I.D. 43/81

"Vide order No. L-12012/117/80-D.II.A dated 14th March, 1981 :

Whether the action of the management of State Bank of Patiala in relation to its Gumti No. 5, Branch, Kanpur in not providing employment to Shri Harish Bajpai, Clerk-cum-Cashier after 13-3-80 and terminating his services is justified ? If not, to what relief is the workman concerned entitled to ?"

"2. In I.D. No. 19/83 vide order No. L-12012(297)/81-D.II/A dated 29th July, 1982 the following industrial dispute was referred :

Whether the action of the management of State Bank of Patiala in relation to their Gumti No. 5 Branch, Kanpur in terminating the services of Shri Govindji Nigam, Clerk-cum-Cashier with effect from 17-12-79 is justified ? If not, to what Relief is the workman concerned entitled to ?"

"3. In I.D. No. 20/83 vide order No.L-12012(298)/81-D.II(A) dated 8th July, 1982 the following industrial dispute was referred :

Whether the action of the management of State Bank of Patiala in relation to their Gumti No. 5 Branch, Kanpur in terminating the services of Shri Vinod Kumar Tiwari, Clerk-cum-Cashier with effect from 11-2-80 is justified ? If not, to what relief is the workman concerned entitled to ?"

2. The facts in the above disputes involve disputes of common nature and require adjudication on similar facts and identical questions of law and the respondent in all these cases is the same, Branch Manager of State Bank of Patiala. In I.D. No. 43/81 Harish Bajpai claimed that he worked as Clerk-cum-Cashier in the respondent branch at Gumti No. 5, Kanpur during the period 20-12-79 to 13-3-80. In I.D. No. 19/83 Shri Govindji Nigam workman claimed that he worked as Clerk-cum-Cashier from 24-9-79 to 17-12-79 in the same branch and in I.D. No. 20/83 Shri Vinod Kumar Tiwari workman claimed that he worked in the same branch as Clerk-cum-Cashier from 22-11-79 to 11-2-80. All the workmen worked for 85 days. Case of all the workmen is that each of them were appointed against a permanent post and the work for which they were appointed was of permanent nature though they were appointed for a shorter period and the management appointed some other employees after termination of each of them and thus in doing so it (management) indulged in unfair labour practice. The action of the ntanagement is in violation of the provisions contained in Section 25H and G of the I.D. Act and other provisions of law. Action of the management is illegal and in contravention of the provisions contained under Section 25G and H of the I.D. Act and therefore, they claimed reinstatement with full back wages.

3. The management contested the references by filing separate written statement in each case denying the claim of each of the workmen stating therein that as per appointment letter each of the claimant was appointed for a period of 85 days with a break of four working days after two months at monthly salary of Rs. 345 per month plus DA permissible as per Bank rules and purely on temporary basis and servics of each was terminable before expiry of term without prior information. It is stated that Harish Bajpai was appointed for the priod w.e.f. 20-12-79 to 30-3-80, Govindji Nigam for a period w.e.f. 20-9-78 to 17-12-79 and Vinod Kumar Tiwari for a period w.e.f. 22-11-79 to 11-2-80 and the management has not violated any award, settlement or provisions of any law so the workmen are not entitled for reinstatement or any other benefit whatsoever. It is admitted that the workman deposited a sum of Rs. 1000 as cash security. It is, however, submitted that the provisions of paras 495 and 533 of Sastry Award had been superseded by the Bipartite Settlement of 1966. Provisions of Section 25G and H of the I.D. Act. 1947 are not applicable as the workman had not completed service of 240 days. Therefore, any of the workmen has no right to claim permanency by invoking provisions of Sectios 25G and H, because the workman has no right to claim appointment on regular basis when his appointment was for a specific period. Therefore, the claim of each workman is untenable and is liable to be dismissed with costs.

4. W.S. was followed by rejoinder wherein the contents of the claim statement were reiterated to be correct, however, the controverted facts of the written statement were denied.

5. The management examined Shri T.L. Arya, Branch Manager, State Bank of Patiala at Ludhiana District Raikot as MW1 wherein he deposed to the facts as mentioned in the written statement and in cross-examination he stated that the letter of appointment was not issued to the workman. Only office order was issued. It is because of Head Office permission in case of temporary employees and their policy that break of four days was given after two months' service in entire period of 85 days. Temporary appointment is appointment for a temporary period. The posts were not permanent, because the staff strength had not been approved by the government. There could not be permanent vacancy while there was no permanent post. All the claimants deposed as witnesses and were cross-examined. Shri Vinod Kumar Tiwari in cross-examination stated that he knew that State Bank of Patiala is a Nationalised Bank. He could not say if in case of vacancy the recruitment was made by the mangement or by the Banking Services Recruitment Board. As he was required to prepare drafts and dispatch work for solting of cash and receipt of cash which is normally done by a man working on permanent post, on that basis he said that he worked on a permanent post. He did not know if there was bank circular of Delhi that only permanent hands would work on those posts or handle that work. He was appointed directly by the Branch Manager. He had not appeared in any recruitment test. Virender, Umesh Chander, Devedi and Km. Anita were appointed for 85 days. I do not know if they were appointed as permanent or temporary.

6. It is pertinent to mention here that Shri O.P. Singla the then Presiding Officer passed an award dated 30-7-84 dismissing the claims of the workmen. The references were ordered to be transferred to the CGIT Kanpur by the order of Ministry of Labour wherein the same were received and registered on 29-1-85 and the Presiding Officer C.G.I.T.

Kanpur vide order dated 4-10-85 recalled the said award passed by Shri Mahesh Chandra as in his opinion the award was ex parte as one of the claimants was not given opportunity to cross-examine the witnesses and directed the parties to appear before him for disposal of these disputes on 4-11-85. The respondents challenged the said order dated 4-10-85 for setting aside the said award before the Allahabad High Court wherein the Allahabad High Court initially stayed the proceedings before the CGIT Kanpur vide order dated 6-12-85 and thereafter modified the said order asking the CGIT to proceed with the proceedings but not to sign the award in the said reference vide order dated 14-7-04 and ultimately on the statement of the counsel for the parties the Allahabad High Court transferred these references to Central Govt. Industrial Tribunal, New Delhi vide order dated 22-4-04 and thereafter these references were received in this Tribunal and registered on 16-8-2004. During hearing before the Allahabad High Court Shri Vinod Kumar Tiwari one of the claimants expired and his L. Rs. namely Smt. Suman Tiwari widow of late Vinod Kumar Tiwari, Km. Shiva Tiwari D/o late Shri Vinod Kumar Tiwari, Km. Shivangi Tiwari minor D/o of late Vinod Kumar Tiwari under the guardianship of her mother Smt. Suman Tiwari and Briyank Tiwari minor s/o late Vinod Kumar Tiwari under the guadianship of his mother Smt. Suman Tiwari were substituted and amended as per order of High Court of Allahabad dated 7-8-03 and thereafter the case was ultimately ordered to be transferred to this Tribunal on 22-4-04. The above references were received by transfer on 16-8-04. Thereafter case was fixed for arguments and arguments were addressed by Shri Narinder Paul A/R for the management on 2-6-05 and Shri R.S. Tiwari and K.G. Tiwari for the workman on 30-6-05. I have given my thoughtful consideration to the contentions raised on either sides.

The following questions arise for consideration in this case :

1. Whether their appointments were for a fixed period and their services were validly terminated on the expiry of the term of appointment ? If so its effect.
2. Whether the action of the management in terminating services amounts to retrenchment ?
3. Whether the provisions of Bipartite Settlement as contained in para 16.12 and para 20.8 are applicable in the instant case and the services of the workmen cannot be terminated in view of the said provisions ?
4. Whether the action of the management is in violation of provisions contained in Section 25G and H of the I.D. Act ?
5. Whether the workmen are entitled to the relief of reinstatement with back wages ?
6. Whether the action of the management in terminating the services of the workmen and not taking them into service amounts to unfair labour practice is in violation of the provisions contained in Section 25G and H of the I.D. Act ?
7. Whether the workmen are entitled to the relief claimed ?

Now I proceed to determine the above questions one by one.

Admittedly each of the workmen i.e. Harish Bajpai, Govindji Nigam and Vinod Kumar Tewari were appointed on temporary basis as Cashier and terminated on the dates mentioned below :

	Date of appointment From	Date of termination To
Sh. Harish Bajpai	20-12-79	13-3-80
Sh. Govindji Nigam	24-9-79	17-12-79
Sh. Vinod Kr. Tewari	22-11-79	11-2-80

All these workmen were appointed vide office orders. Shri Harish Bajpai was appointed vide office order dated 20-12-79 copy of which is Ex. M1. His services were terminated vide letter dated 13-3-80 Ex.M2. Shri Govindji Nigam was appointed vide office order dated 24-9-79 photo-copy of which is Ex.M1 and terminated vide order dated 17-12-79 copy of which is Ex.M2. No appointment letter was issued to Vinod Kumar Tewari. The said documents are reproduced for the sake of appreciation. Office order dated 20-12-79 of Sh. Harish Bajpai is as under :

> "With reference to your application dated 29-10-79 you are appointed as a temp. cashier-cum-clerk for a period of 85 days with a break of four working days after two months. You will get Rs. 345 per month plus D.A. permissible as per rules your appointment will be on temporary basis and your services cannot be terminated before expiry of the term without prior information.
>
> Please sign below in the token of being noted the terms and condiditons of appointment and accepted the same."

Sig. of Harish Bajpai Manager

Office order dated 13-3-80
Sh. Harish Bajpai

Your services are hereby terminated today afternoon in reference to our office order dated 20-12-79.

13-3-80 11.30 AM Sd/-
Manager

Shri Govindji Nigam
Office Order dated 24-9-79

With reference to your letter dated you are informed that you are appointed as cashier-cum-clerk for a period of 85 days with four days break on the basic salary of Rs. 190 PM and usual allowances as admissible under bank rules from time to time on purely temporary basis. However your services can be terminated contrary to this before the expiry of time without assigning any reason thereof. You will have to deposit a sum of Rs. 1000 (Rupees One thousand only).

Please sign below being the token of that you have noted the terms and conditions of appointment and accepted the same.

Dated : 24th September, 1979 Sd/-
Manager

Office order dated 17-12-79 Shri Govindji Nigam

The services of Shri Gobindji Nigam Temporary Cashier-cum-clerk are terminated today afternoon on completion of his term of 85 days. He is directed to hand over the charge of his seat if any.

Signature of Sh. Gobindji Nigam Sd/-
Manager

From the perusal of Ex. M1 and M2 it is evident that Mr. Harish Bajpai and Govindji Nigam were appointed on termporary basis for a fixed period on monthly salary of Rs. 345 and Rs.190 respectively and their services were terminable on the expiry of the term of their appointment without prior notice. The services of Harish Bajpaye were terminated on 13-3-80 vide office order Ex. M2 and that of Govindji Nigam were terminated on 17-12-80 vide order Ex.2. From the perusal of Ex. M1 and M2 it is apparent that the workmen were appointed for a fixed period of 85 days against a temporary post and their services were terminated on expiry of the said period. The services of Vinod Kumar Tiwari were terminated on 11-2-80. Each of the workman was asked to deposit Rs. 1000 as Security amount at the time of his appointment. The services of the workmen who have been appointed for a fixed periods can be terminated on the expiry of the term of appointment i.e. termination of the workmen on the expiry of the term of their appointment is legal and justified. This view gains support from the S.C. decision reported in 2005X AD(SC) 171 captioned as Kishan Chandra Samal *Vs.* Divisional Manager Orissa, State Bank Cashew Development Corporation Limited 2005. A.D. (S.C.) 1271 SC upholding the order of the High Court justifying the order of termination of the workmen on expiry of the term for which he was appointed in the said case. In the said case the Labour Court had held termination of the workman Sh. Kishore Chandra as illegal and unjustified and he was ordered to be reinstated. The High Court set aside the order of the Lower Court holding that the termination of the workmen was valid and justified on expiry of his term of appointment. It was observed by the S.C. that "in the instant case all the orders of engagement of specific periods have been mentioned and the facts of the said case were different from the decision in S.M. Neenalaynkr case and others *Vs.* Telecom District Manager Karnataka 2003 (4) SCC 27, as in the said case no period was indicated only nature of engagement as temporary was mentioned. However, in the Present cases it has been contended on behalf of the workmen that the services cannot be terminated in view of para 16.12 of the Bipartite Settlement dated 19-10-66 on the ground that guarantee furnished by them has been withdrawn. The said para is mentioned below in order to find out if the contention is tenable or not.

> "16.12 : Unless a misconduct is involved, the services of a workman under guarantee shall not be terminated merely by reason of the guarantee covering him being withdrawn. In such a case the bank shall be free to transfer such workman to another department."

Before determination of said contention, it is pertinent to mention here that it is admitted fact that each of the workman was asked to deposit a sum of Rs. 1000 by way of security and each of them deposited the said amount with the respondent. It is evident that according to the above provisions contained in para 16.12 services of a workman shall not be terminated due to guarantee having been withdrawn. He can only be transferred but the services of each of workmen herein were terminated not on account of withdrawing gurantee or security deposit. According to the respondent services of each of the workman were terminated on the expiry of this term of appointemt and not for any other reason. Workman has further contended that their services cannot be terminated in view of the provisions contained in para 20.8 of Bipartite Agreement which are reproduced as under :

> "20.8 : A temporary workan may also be appointed to fill a permanent vacancy provided such temporary appointment shall not exceed a period of three months during which the bank shall make arrangements for filling up vacancy permanently. If such a temporary workman is eventually selected for filling up the vacancy, the period of such temporary employment will be taken into account as part of his probationary period."

According to para 20.8 a temporary workman can be appointed to fill a permanent vacancy maximum for a period of three months only and during this period for which a temporary arrangement has been made, respondent bank shall make arrangement for filling up vacancy permanently i.e. make permanent appointment and it further provides that if temporary workmen appointed to fill up permanent vacancy is selected against a permanent vacancy the period of temporary appointment shall also be taken into consideration for probationary period. Thus according to this provision a temporary workman appointed to work against a permanent vacancy if selected for permanently period during which he worked/rendered services

temporarily shall be also taken into account and added to the probationary period i.e. to say if a workman initially appointed temporarily against permanent post selected (appointed) against permanent post and he is kept on probation for a period of one year and he has worked temporarily for a period of 3 months, this period of 3 months shall be counted towards the period of his probation and on successful completion of period of 9 months from the date of permanent appointment plus 3 months temporary period the probationary period of one year shall be complete. Thereafter he may be confirmed or regularized. These provisons do not provide that temporarily appointed workmen shall he appointed permanently against the permanent vacancy. The grouse of the workman is that they were not given opportunity to face the interview for appointment against a permanent post under these provisions for appointment. There is nothing on record that during the relevant period there existed any permanent vacancy/vacancies for which any interview was taken by the respondent to fill up the said vacancy/vacancies permanently. Thus in my view there is no infraction of the said provisions as claimed by the workmen. It was also contended on behalf of the workmen that provisions contained in Sastry Award Chapter 31 Para 559 and para 561 and provisions of S. 33 I.D. Act, 1947 have been violated by their termination but I fail to understand as to how these provisions of para 16.12 and 20.8 which culminated in Section 33 I.D. Act have been violated when all the workmen were appointed temporarily for a fixed term of 85 days and services of each of them were terminated on the expiry of the term of appointment of each of the workmen as mentioned above.

It is further contended on behalf of the workmen that the action in terminating their services amounts to retrenchment in view of the definition of Section 2(oo)(i) as their termination is not on the ground of having inflicted punishment due to disciplinary action and part (bb) of the said definition is not applicable to them as the same was inserted subsequently in the year 1984 much after their termination in the year 1980-81. The said definition of retrenchment is reproduced as under :

> "(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include :
>
> (a) voluntary retirement of the workman; or
>
> (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
>
> (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
>
> (c) termination of the service of a workman on the ground of continued ill-health."

Admittedly the services of the workmen were terminated/dispensed with or came to an end in the year 1980, 1979 and 1980 respectively. While the amendment by way of para (bb) of cl. (o) in Section 2 of I.D. Act was inserted w.e.f. 18-8-84. Obviously later clause (bb) of Section 2(oo) of I.D. Act will not be applicable in this case. The argument of the workman is that their termination is as a result of non renewal of their term i.e. term of contract and they having been once employed for a short period as claimed by management their alleged termination amounts to retrenchment. Thus because of non-renewal of contract of their services, their temination does not lose the element of retrenchment and it is, therefore, retrenchment as the same is termination for whatever reason as per provisions of Part I of clause (oo) of Section 2 of I.D. Act and citations referred to in the decision reported in 1985 (51) F.L.R. SC 495 captioned as H.D. Singh *Vs.* R.B.I. & others, (2) 1997 (78) FLR 393 Oriental Bank of Commerce *Vs.* Union Bank of India, (3) [2002(93) FLR 518] G. Thilagam and others *Vs.* Presiding Officer, Labour Court Salem and another and (4) 1976 (32) S.C. 197 State Bank of India *Vs.* N. Sundra Money relied upon by the claimant are not applicable to the facts of this case as the same pertain to the violation of the provisions contained in Section 25 F, G and H of the I.D. Act under Section 2(a) and 10 of the I.D. Act as the workman therein has in each case has worked continuously for more than 240 days and not appointed for a fixed period like the cases in hand. It is also contended that the action of terminating their services which amounts to retrenchment is an infraction of provisions 25G and H of the I.D. Act.

To my mind provisions of Section 25G are applicable to situation when the workmen belonging to a particular category such as a casual employee/temporary etc. Workmen working in an establishment is to be retrenched from the establishment. In that case workman who joined later/last can only be retrenched and not the one who joined earlier. In the instant case services of Govindji Nigam were already terminated. Provisions contained in Section 25 H provide for re-employment of retrenched employees. According to Section 25 H only retrenched persons can be re-employed i.e. retrenched employee can avail of the provisions of Section 25 H only when his retrenchment is valid. Workmen are alleging violation of both the provisions contained in Section 25 G and H of the I.D. Act i.e. they are claiming benefit of Section 25 G on the ground that their termination is illegal, not valid one and on the other hand they are also claiming benefit of violation of Section 25 H of the I.D. Act (Re-employment of retrenched workmen). Retrenchment can be either valid (legal) or illegal but it cannot be both at the same time. Thus there is a conradiction in their contentions inasmuch as the retrenchment can

either be legal or illegal. In this case Harish Bajpaye was appointed as clerk-cum-cashier on 20-12-79 and terminated on 13-3-80. He was appointed at last and later than all employees and he is not entitled to the benefit of provisions of Section 25 G and H, Shri Govind Ji Nigam was appointed on 24-9-79 and terminated on 17-12-79 and Vinod Kumar Tiwari was appointed as Clerk-cum-Cashier on 22-11-79 and terminated on 11-2-80 and after Govindji Nigam and Vinod Tiwari, some of the employees namely Shri Ajay Kumar Trivedi was appointed from 4-12-79 to 1-3-80, Shri Umesh Chander Dwivedi from 25-2-80 to 23-5-80 and Km. Anita from 4-3-80 to 1-5-80. During the continuance of the appointment of Shri Vinod Kumar Tiwari. Later appointment of Sh. Umesh Chander and Anita and Ajay Kumar Dviwedi were also made by management for a limited period as is apparent from document Ex. M1 and M2 but during the continuance of the services of the claimants Vinod Kumar and Govindji Nigam and in view of this I was inclined to hold that the management respondent should have given opportunity to the said claimants or should have appointed or engaged these two claimants in place of the later appointment of Umesh Chander Dwivedi, Ajay Kumar Trivedi and Km. Anita and this act of the management in not engaging the said claimants is unfair but I am afraid that this does not constitute any of the unfair labour practices as mentioned in Section 2 (ra) of I.D. Act and specified in Schedule V attached to I.D. According to Section 2 (ra) of the I.D. Act unfair labour practice means any of the practices specified in the Fifth Schedule attached to the Act. Unfair labour practices have been mentioned in part I and Part II of Vth Schedule of the Act. Part I enumerates unfair labour practices on the part of employer whereas Part II mentions unfair labour practice on the part of workman and unions of workmen. The second part is not relevant for purposes of this case. The Act of termination of the above workmen by the management is not covered by the definition of unfair labour practices given in Section 2 (ra) and Fifth Schedule as mentioned above and the same cannot be termed as unfair labour practice. The Schedule Fifth at item 5.10 speaks of unfair labour practice on the part of the employer which is mentioned as under :

> "The workmen/claimants herein were employed only for a short period and not continued in employment for years giving gaps etc. with a view to deprive them of the steps and privilege of termination of workmen. Hence workmen cannot complain unfair labour practice and Section 25H of the I.D. Act is not applicable."

The workmen are not entitled to the benefits contained in provisions of section 25G also for the reasons mentioned below :

That Shri Harish Bajpaye was appointed last and he cannot claim preference over the alleged appointment of Shri Ajay Kuamr, Anita and Umesh Chander Dviwedi. The alleged letter of appointment were made during the continuance of Vinod Kumar Tiwari and Govindji Nigam and they were also appointed for a fixed period to meet the requirement of work. Moreover, each of the workman was appointed for a fixed period and their termination is legal and does not amount to any retrenchment as claimed. Each of the workman was appointed for a fixed period and his termination on the expiry of his term of appointment is legal and does not amount to retrenchment as claimed. See 2005 X A.D. (SC) 171 Krishan Chandra Samal *Vs.* Divisional Manager Orissa (Supra).

The management has also pleaded that the engagement of the workmen herein was illegal being in violation of the procedure established by recruitment rules contained in relevant para 5.9 and 5.10 of the recruitment rules which are mentioned above in the preceding para. There is no meterial on record that any of these workmen has taken any written test or that they were interviewed by the recruitment board or by the panel consisting at least one member of the recruitment board as envisaged by rule 5.10. The workmen Shri Harish Bajpaye, & Govindji Nigam were appointed vide office order dated 20-12-79 and 24-9-79 respectively while no such office order was issued to Vinod Kumar Tiwari. However, he was appointed. They appear to have been interviewed by the branch manager only who issued and signed their appointment order which appears to be in clear violation of the aforesaid rules contained in para 5.9 and 5.10 of the recruitment rules and their appointment on temporary basis appears to be illegal and any person appointed illegally on the basis of office order issued by manager though temporarily for a short period is not entitled to seek relief of appointment permanently and in taking this view I am reinforced by the observations of the S.C. in the case captioned as Regional Manager S.B.I. *Vs.* R.K. Tewari 2006 (1) S.C.C. 345 which are as under :

> "No conditions of services were agreed to and no letter of appointment was given. The nature of the respondent's employment was entirely ad hoc. They had been appointed without considering any rule. It would be ironical if the person who have benefited by the flouting of the rules of appointment can rely upon those rules when their services are dispensed with."

In view of the above discussions all the above questions are thus determined and I am of the opinion that the action of the management of State Bank of Patiala in relation to its Gumti No. 5, Branch Kanpur in not providing employment to Shri Harish Bajpaye, Clerk-cum-Cashier after 13-3-80, and Shri Govindji Nigam, Clerk-cum-Cashier w.e.f. 17-12-79 and Shri Vinod Kumar Tiwari, Clerk-cum-Cashier w.e.f. 11-2-80 and terminating their services cannot be found fault with and is legal and justified and any of the workman is not entitled to any relief. Copy of this award be also placed in two other cases captioned as I.D. No. 19/83 Govindji Nigam and I.D. No. 20/83 Shri Vinod Kumar Tiwari and the reference is thus answered accordingly. File be consigned to record room.

Dated : 31-5-06. S. S. BAL, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय - 2, मुम्बई के पंचाट (संदर्भ संख्या 2/166/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-31012/15/1999-आई आर (एम)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/166/99) of the Central Government Industrial Tribunal-cum-Labour Court-2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mumbai Port Trust and their workman, which was received by the Central Government on 6-6-2006.

[No. L-31012/15/1999-IR(M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT:

Shri A. A. Lad, Presiding Officer

REFERENCE NO. CGIT-2/166/99

Employers in relation to the management of Mumbai Port Trust

The Chairman, Mumbai Port Trust, Mumbai.

AND

Their workmen

T. S. MANE, Represented by Mumbai Port Trust Union

APPEARANCES:

For the Employer : Mr. Umesh Nabar, Advocate

For the Workman : Ms. Kunda N. Samant, Advocate

Mumbai, dated the 7th April, 2006

AWARD—PART-I

Reference is made by the Desk Officer, Government of India, Ministry of Labour, Shram Mantralaya, New Delhi under letter dated 6th August, 1999 regarding Workman Shri Tukaram Sadashiv Mane for adjudication:

> "Whether the action of the management of Mumbai Port Trust in dismissing the services of Shri Tukaram Sadashiv Mane is justified ? if not, to what relief the workman is entitled to ?

2. On the basis of the said reference notices were issued under Clause (d) of sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947.

3. To prove the claim made in the reference, the Union by Statement of Claims filed at Exhibit 6, contended that, the Second Party viz. The Mumbai Port Trust Workers' Union is the eldest registered Trade Union not only in Mumbai Port Trust but also in India. The said Union is registered in 1928 and functioning since then for the welfare of the workers of the Mumbai Port Trust. It has considerable members of the employees of the Mumbai Port Trust. It was known as Bombay Port Trust Railway Men's Union till 20th February, 1998.

4. The Enquiry was conducted by the First Party by issuing Charge Sheet dated 2nd January, 1995 alleging that 42 wagons were received at 10.00 a.m. on 13th June, 1994 at Station BPT "G" and placement of these wagons for delivery is shown as 16 wagons on 16th June, 1994, 19 wagons on 25th June, 1994 and 7 wagons on 9th July, 1994. It was alleged that 7 wagons were received at 7.30 hrs. on 9th June, 1994 and its placement is shown as 3 wagons on 17th June, 1994, 4 wagons on 18-6-1994, 21wagons were received on 14th June, 1994 at 23.00 hours and their placement is shown as 5 wagons on 16-6-1994 at 23.00 hrs, 11 wagons on 17-6-1994 and 5 wagons on 18th June, 1994. By all this it is alleged that there is delay in placement of wagons from 3 days to 27 days which caused inconvenience to the Railway authorities and traffic of that area and caused loss of revenue to the Trunk Railways in several lakhs. It was alleged that said placement was not done carefully and taking care to avoid such revenue loss and it was alleged that it is Workman T. S. Mane who is responsible for all that. In the reply filed by the Workman to the charge sheet made out case that he alone is not responsible for the said loss. In fact it was the duty of other staff members for the placement of the wagons. He is overall controlling the placement of the wagons and alone is not responsible for the loss suffered by the First Party. Second Party Workman was supposed to work 90% as per the orders received from his superiors and has no discretion to take any independent decision as Station Master. Assistant Station Master works under him to supervise the work of Operative Staff Class III and Class IV and in that capacity he is directly responsible for Yard position, receipt of uptrains andtheir sorting and that Wagons are not stable at level crossing to held up Vehicular traffic of that area. It is contended that he is the Workman and comes under the category of Class III and has no individual power

to take any decision. He is the Member of the Union, he is covered under Wage-settlements which took place between Union and Employers. He has no power to write Confidential Reports or sanction leave of any staff. According to him he is equivalent to Assistant Superintendent's position working in other departments of the First Party and comes in the scale of Rs. 2600-100-120-9940. According to Union the Second Party Workman, T. S. Mane was doing his routine work of Operating Section and was senior most amongst the staff. He being the Senior Workman used to solve the problems in consultation with all in case of any difficulty arises. If any problem arises regarding booking or traffic jam of goods, ASM of the particular shift has to make report of the errant employee and has to recommend action to be taken against such errant Workman. However, T. S. Mane has no power to take decision in that respect. He has no power to pull up any employee or initiate any enquiry against him. Since he is not writing Confidential Reports of any of the staff and has no power to sanction leave he cannot cross his status from the cadre of the Workman to officer though he is called Station Master. Even he has no power to grant Earned Leave or any other relief. He was getting over time and as such his status, fall under the definition of "Workman" as defined under Section 2 of Industrial Disputes Act.

5. It is further contended that he was promoted on 24th July, 1984 and since then working as Station Master which is of Grade II. During the period 30-9-1994 he was overall incharge of the Ground Department from and 24-4-1990 to 30-8-1994, used to attend various circulars received from Railway Manager. According to Union, Workman T. S. Mane is not responsible for the delay in the placement of the wagons from 3 to 23 days as alleged and responsible for the alleged loss in lakhs of rupees caused to the First Party. According to the Union placement of wagons or rakes are in the Depots which is done by the Senior Train Clerk under the direct supervision of Station Master i.e. Workman. According to the Union each employee is performing his specific duties. The workman cannot be held responsible for it. As placement of wagons is to be provided by ASM for each shift and for which Workman T. S. Mane cannot be held responsible for the alleged delay caused. It is further contended that, holding enquiry is farce by appointing Mr. D. M. Daithankar, an Advocate, as an Enquiry Officer who generally and regularly conducts such departmental enquiries of the employees of the Mumbai Port Trust. The Workman was represented by the Secretary of the Union by name Mr. Pagare. The evidence brought on record by the First Party of Mr. Warelikar, Mendhale, Toreskar and Jaiswal wherein they gave stated similar things stereo type against the Workman and it does not help actually to the enquiry officer to give finding against the Workman. Besides First Party was represented by law graduate or the practicing Advocate and against that the Workman was represented by the Union representative. It is alleged that, the Enquiry Officer shown favour towards the Management. He allowed the re-examination of the Mehandale, ASM who was supervising Class III and IV staff in the Yard. The said witness is not expected to stable the wagons at level crossing to hold up the vehicular traffic. However, placement was given to the Workman and as such for that, Workman T. S. Mane cannot be held responsible. According to him, Senior Train Clerk is responsible for the placement of the wagons and responsible for the loss caused to the First Party. By allowing re-examination of Mr. Mehandale Enquiry Officer supported the First Party in concluding like that. In the enquiry said ASM categorically admitted that, he did not experience any delay at any time for placement of the wagons. The witness examined by the First Party did not give any proof for this type of advice from the wrokman regarding placement of wagons and that, he is responsible for it. Even Mr. Warelikar who was examined by the First Party says that, wagons were placed by Operative Staff as per placement shown by them in the respective registers. It is stated that, the placement time is shown by them in the respective demurrage registers and accordingly it is charged. Said Mr. Warelikar clearly bifurcate the duties and responsibilities of 2 sections i.e. of Operational and Commercial but it was ignored by the Enquiry Officer. It is further contended that, Mr. R. R. Jaiswal recorded statements of witnesses in the presence of Presiding Officer. The said witness fairly admits that he is responsible for the commercial work of staff of the said Railway. In the deposition made before the Enquiry Officer workman has categorically denied regarding delay in placement of Wagons and stated that ASM was responsible for it. He also alleges that, demurrage was charged erroneously and said work was done by the Commercial Department. He also alleges that placement of wagons was done by the Trunk Clerk under the supervision of ASM. The evidence led by the Workman of Mr. Parshoram supports his case. The said witness was not cross-examined by the First Party. It is alleged that, there is no delay in placement of wagons as alleged. If at all there was any loss it cannot be attributed to the Workman. The duties of the ASM are fixed where it is not stated anywhere that working of Workman and that nowhere it is stated regarding the duties of the Station Master. According to him enquiry was farce and report was perverse. Since he was not happy with the finding submitted by the Enquiry Officer he preferred an appeal on 18th July, 1996 to the Chairman of the Bombay Port Trust. Even he approached the Chairman when his grievances were not considered by the Appellate Authority still decision was taken of termination. According to him he was victimized by the First Party with the help of enquiry and its report. So dispute is raised by the Union of Wrokman. T. S. Mane is the Member of the Union and pray to declare dismissal order of Workman T. S. Mane is illegal and unjust and arbitrary and was taken by way of victimization. It is also prayed to

declare charge sheet as perverse. It is submitted that 31 years of long service rendered by the Workman T. S. Mane be considered which was unblemish and without any spot and as such it is prayed that the Workman T. S. Mane be reinstated with benefits of back wages and continuity of service.

6. This claim is disputed by the First Party by filing written statement at Exhibit 7 stating and contending that, the Second Party is not the Workman. He was working as Station Master. He was also supervising work of his subordinates. He was overall in-charge of the Station. He was also entrusted with the duties and with the responsibilities of careless and slack working amongst the staff. He had power and authority to sanctioned casual leave. According to First Party. Workman was responsible for the day to day working of the staff of the First Party working under him and he is not the workman as defind under Section 2 of Industrial Disputes Act. It is further contended that, the charges leveled against the Workman were proved before the Enquiry Committee which was appointed. The Enquiry Committee conducted the enquiry fairly and properly and proper and full opportunity was given to the Workman and his representative. They enjoyed it and took part in the enquiry. Charges leveled against the Workman were regarding placement of wagons which are proved beyond doubt. It is also proved that the loss was occurred in crores because of Mr. T. S. Mane who was involved the charges. Considering the findings given by the Enquiry Committee, action of dismissal was taken which is just and fair. It is denied that the work of the placement of the wagons was of ASM and there is bifurcation between Operative and periodical work. As the action was taken after giving full opportunity to the Workman and since he is Workman this Court cannot interfere with the decision taken by the First Party in dismissing the Second Party Workman Mr. T. S. Mane. So it is prayed that the Reference be rejected.

7. In view of the above pleadings my Ld. Predecessor framed issues at Exhibit 10. Meanwhile Second Party Workman carried out amendment in the Statement of Claim Exhibit 6 by adding portion 4(a) incorporating it in red typing taking stand that in application Exhibit 15 T. S., Mane is a Workman. Thus in consequence to it, Issue of Workman is framed by adding Issue No. 2(a) and my Ld. Predecessor passed an order on 21-3-2000 by adding it and directed both parties to lead evidence under of 2(1) and 2(A) as those were treated as preliminary issue which I answer against it as follows :

Issues	Findings
1. Whether the domestic inquiry which was conducted against the workman was against the principles of Natural Justice?	No
2. Whether the findings of the enquiry officer are perverse ?	No
2A. Whether Tukaram Mane is the Workman within the meaning of S.2(s) of I.D. Act ?	Yes

ISSUE NO. 2(a)

REASONS :

8. The issue of status of Mr. T. S. Mane is taken into consideration in this issue. By carrying out amendment Union pleaded that T. S. Mane was workman. The status of T. S. Mane and decision on it when goes to the root of the case I am taking this issue first though there are 2 other Issues i.e. Issue regarding fairness of domestic enquiry and perversity of the findings which were earlier kept to decide as preliminary issues.

9. Since Union made out the case that T. S. Mane is the Workman and if it succeeds in showing that T. S. Mane is the Workman, then and then only grievance made by Union of T. S. Mane can be considered here. If Union fails on the point, and if First Party succeeds in showing that Mane is not the Workman, then no question will arise to answer remaining preliminary issues.

10. This crucial question of status of T. S. Mane has to be decided first and to prove that, Union placed reliance on the duty list displayed by the First Party, powers entrusted with him and day to day duties attended by Mane. According to the Union T. S. Mane was not having power to sanction leave, having no control over his staff though he was designated as Station Master. He was not having power to take any independent decision and it was binding on the First Party. He was not the part and parcel of the decision making body which affect on the policy of the First Party as well as affect on decision taking policy. Simply he was doing supervisory work which is done by a person of a cadre of Superintendent in other department. Just for convenience he was working as a Station Master and as such he was no more than the workman. Besides he was the member of the Union. He was paying subscription of the Union. Even decision taken by the First Party to proceed against him by appointing Enquiry Committee and conducting enquiry treating him as a "workman" is sufficient to conclude that T. S. Mane is the workman. Whereas case made out by the First Party that, designation of Mane as Station Master itself is sufficient to conclude that he was not the "workman". The word "Master" itself have high status, and definitely have great meaning than meaning of word of "Workman". Definitely master cannot be "Workman". He was sanctioning leaves. Number of employees were working under him. He was whole and sole incharge of the Station. In the said set of circumstance he cannot call himself in inferior status of workman when he was actually working on higher post.

11. The later submissions and case made out by both, if we persue the Statement of Claims, reply given by the First Party on it and evidence led by both I find that the Second Party Workman T. S. Mane at Exhibit 26(A), and when he again re-examined after carrying out the amendment at Exhibit 26 made out case of Workman and in support of that Second Party examination of Narayan Gaikwad at Exhibit 27. As far as deposition of Mr. Gaikwad is concerned who is the Secretary of the union, has stated that, Mr. Mane is the Member of the Union of which he is the Secretary. His status of Workman was never challenged by the First Party. Union was accepting his monthly subscription and was a member of it i.e. member of the "M B. P. T. Workers' Union". Whereas T. S. Mane states, claiming he is the member of the Union for years together and his status was never challenged by the First Party must lead to conclude in his favour. He denied that, he was more than the Workman in status. He was saying that, though he was sanctioning casual leave still he was not having power to sanction Earned Leave. He was not having power to participate in the decision making committee. He was not considered for taking any decision by the First Party. Though he was over all supervising the working of his staff as a part of his duties as done by the employee of the Superintendent status of other departments. ASM was helping him and he was submitting reports to his superiors regarding day to day activities of the Station. Whereas First Patry has examined 4 witness viz. S.P.M. Tripathi at Exhibit 22, G. S. Gupta at Exhibit 23, B. K. Worlikar at Exhibit 24. Out of these witnesses, Tripathi and Gupta has stated that, T. S. Mane was taking rounds and supervising work of his junior staff. He was granting casual leave. However, they admit that, Mane was not having power to grant Earned Leave. They admits that, Mane was not having power to write Confidential Reports of the staff members and leaves were granted by the ASM. Mane is shown as Class III employee. He is paid as per Wages Settlement. He was doing overtime. Class III and IV employees can become members of the Union. Settlement at Exhibit 9 was concerned with the Class III and IV and Mr. Mane was beneficiary of it. Leave record of the Workman is maintained by the Department. It is admitted that, Mr. Mane was not an officer. It is denied by Gupta that, he has no idea whether Mane was discussing with the Railway manager regarding day to day work. He stated that there are number stagesiun hierarchy in the Railways staff working in the Bombay Port Trust like Clerk Marker, Records Clerk, ASM, and what not. He admits that, Station Master was not having power to grant Earned Leave as well as privilege leave. He also admits that, Station Master used to report regarding misbehaviour of his staff working under him. He also admits that Casual Leave granted by Mane was scrutinised by Head Office and record of it was maintained by it. First Party files its closing purshis at Exhibit 25 and Second Party at Exhibit 32 and 32(A) reiterating that they have closed their evidence on these preliminary issues, i.e. on issue of Workman, fairness of enquiry and perversity of findings.

12. Now, before us, is the issue of "Workman". Admittedly Mane was identified and designated as 'Station Master'. No doubt said name and wording itself by which he was known, in that locality as 'Station Master' definitely have more meaning than simple labourer 'or workman'. But it is to be noted that, he was Class III employees. He was the Member of the Union. He was paying subscription to the Union. His status as a member of the Union was never challenged by the First Party. He was not having power to grant earned leave. He was not taking part in decision making Committee. He was not even consulted by higher authority while taking any decision or making any promotion. But simply because he was supervising some workers and some workers were helping him and that he was recommending the casual leave it does not mean that, he acquired the status of the "officer". Above witness of the First Party have categorically admitted that, Mane was not treated or identified or known as an "officer". Said Mane step by step acquired the post of Station Master. He was having some staff to help him in his work. It does not mean that, he was officer and he cannot call himself as a workman. Above all, enquiry was conducted against him by issuing charge sheet. Decision taken by the First Party in issuing charge sheet, holding an enquiry itself reveals that, First Party treated Mr. Mane as Workman, otherwise it cannot issue charge sheet, call for explanation, appoint enquiry committee and conduct and enquiry. So in my considered view, the decision taken by the First Party in proceeding against Mane of sending charge sheet, and following all those formalities referred to above is more than sufficient to conclude that, he was treated by the First Party as a Workman. If he was not treated as a Workman question arises under which provision he can be charge sheeted ? All these series of steps answer the status of Mane as a Workman itself. Besides citation published in 1984 (1) LLJ SC P. 388 observed "when there is admission as a Workman then it cannot be challenged any time". Citation published in 1994 (II) LLN page 1017 observed that, "if the workman is employed to do operational work it is included in the definition of "workman" though it is skilled, unskilled and that does not debar workman from claiming. The position in law is that, person to be workman under Industrial Act must be employed to do work of category of manual unskilled, skilled, technical, operastional, clerical or supervisory. It is not enough that, he is not covered by either of the 4 exceptions to the definition and that cannot prohibit the workman from claiming his status. Besides citations referred by the Second Party published in 2000 (II), CLR, p. 649, the decision of our Hon'ble Court while deciding the case of Aloysis Nunes v/s. Thomas Cook India Ltd. observes on this that, the one has to apply some test to find if the employee is Workman and those are whether said person is work in managerial or administrative

capacity, whether he discharges duties of managerial or administrative and did he perform any supervising work or whether he is occupying the position in the establishing command or decide and can take part in the decision making policy and decide any policy and whether he is having command over his territory or department, whether no other one can interfere ? If we apply these tests to Mane, we find, definitely he cannot pass all those which are laid down by our Hon'ble High Court while deciding case of Aloysium Nunes v/s. Thomas Cook India Ltd. Another citation of our Hon'ble High Court published in 2000 LAB IC p. 2757 laid down that, when subscription of the Union was deducted from the salary, such a person is called as a "workman". Even citation 2001 (III) CLR p. 632 decision of our Hon'ble High Court in case of Shaukat Adam Malim *vs.* Kokan Mercantile Bank Ltd. observed that, continuously and consistently treating status of employee as a Workman by employer, cannot be permit to be challenge. Ratio laid down by the Gujarat High Court published in 2002 (III) CLR p. 919 observe that, incidental supervision work does not mean that, the said workman was all the time doing supervisory work and he cannot claim as a Workman. Citation published in AIR 1961 and relevant page 1346, citation published in 1987 SC p. 2084 and citation published in 2004(I) CLR p. 272 are not application at this stage as referred since it is concern with the Second Party.

13. To support its case, the First Party also place reliance on citation and one of it is citation published in 1992(1) LLR p. 184 decision of our Hon'ble High Court taken, while deciding case of Shrikant Vishnnu Palwankar *vs.* Presiding Officer, Ist Labour Court, wherein it was observed that when the Workman is drawing salary exceeding Rs. 500 per month and as such he cannot claim as a workman. However, in that case Mr. Palwankar was working as a Foreman and his duty was of checking of blocks and materials received from other departments which was all time purely of a supervisory nature. So in my considered view taken in the ratio laid down does fit to debar Mane to claim as a Workman. The copy of one citation produced by the First Party Workman of our Hon'ble High Court in Writ Petition No. 225 of 1995 reveals, that if any decision of the employee binds the company and it is binding on it then definitely said employee is not a Workman. However, in the instant case it is not pointed out that, any decision taken by Mr. Mane was accepted by the First Party and he was party of the decision making Committee.

14. If we consider all these coupled with the number of citation referred to above, case made out by both the parties I conclude that, though Mr. Mane was called Station Master, he was no more than the workman and as such his status at this stage in the reference cannot be challenged by the First Party. Above all First Party treated him as a Workman, issued charge sheet, appointed enquiry committee conducted it and accepted upon decision these itself prove that, he was treated by the First Party as a Workman and now said decision of the First Party now does not permit it to take "U" turn at this stage and deny his status as a Workman. So I answer this issue that T.S, Mane is the Workman.

Issue Nos. 1 & 2:

15. These Issues are framed on the basis of pleadings made by the parties. Issue of fairness of the enquiry and perversity of the findings are now taken for discussion.

16. In the Statement of Claim the Second Party Union made out a case that the charge sheet was perverse. That Second Party Union spent 18 pages and then added 4 pages to plead the point of Workman, reveals rather overlooked and clearly ignored to plead about fairness of enquiry as pointed out by the Ld. Advocate for the First Party. In all these pages in which Statement of Claim is made out by the Second Party. Union about Mr. T. S. Mane, the concerned Workman, nothing is stated and pleaded how enquiry was not fair and proper. But still in pleadings i.e. in the affidavit submitted by the concerned Workman at Exhibit 26(A), he made passing reference regarding enquiry stating that, his representative was not a law graduate as was that of First Party's representative. He further tried to state that, neither he nor his representative were knowing that, representative, of the First Party can re-examine their witness in order to fill the lacuna of examination-in-chief. This particular contention of T.S. Mane in the affidavit at Exhibit 26(A) reveals that, no objection was taken either by Mr. Mane nor his representative to the re-examination of witness of First Party. That means, in the enquiry objection was not raised by Mr. Mane nor by his representative to the enquiry and to the recording evidence in it. It is stated by Mr. Mane that Mr. Daithankar, a practising Advocate, who was appointed Enquiry Officer, alleges that he regularly holds departmental enquiries and work only as Enquiry Officer in respect of charge sheeted employees of MBPT for last 15 years and holds most of the employees guilty favouring the MBPT. However, in the instant case it is not pointed out how Mr. Daithankar, Enquiry Officer shown favour to the First Party and did injustice to Mr. Mane. Though vague allegation is made and that too in their affidavit which is placed on record in the form of examination-in-chief. It is further alleged that, all the statements of witness are uniform and were recorded mechanically. However, on this point, in my view First Party cannot be blamed or even the Enquiry Officer as it is the choice of the representing officer of the First Party in what manner they have to place evidence. It is further alleged that, all witnesses made tailor-made statement. Again for that Enquiry Officer cannot be blamed to conclude that he was bias. It is alleged that, Enquiry Officer shown bias against charge sheeted employee by not considering the beneficial parts contained in the documents produced by the Management. However,

when opportunity was given to him to show which beneficial part from the documents and how it helps the charge sheet employee and still it overlooked is not pointed out to this Tribunal. When it is not pointed out how it can be concluded that, enquiry officer placed reliance only on certain documents which were favouring the Management and going against the charge sheet employee ? This we find in the affidavit of Mr. Mane, however, it was not in his Statement of Claim which ought to have been as a part of the pleadings. If we turn to the written submissions of the Advocate for the charge sheet employee we find, she has pointed out number of things regarding enquiry which were not pleaded in the Statement of Claim, where opportunity was given to the charge sheeted employee to plead it. Except saying that, charge sheet was perverse nothing was stated in the Statement of Claim by the charge sheet employee which is the pleading about the enquiry and perversity of the findings. Even Advocate for the First Party in a single sentence submit that, when enquiry was not challenged now it not be and as such charge sheeted employee is estopped from saying anything on the fairness of the enquiry.

17. Still in the written submissions at Exhibit 35 charge sheeted employee again tried to make out the case how the enquiry was not fair by repeating the above things, particularly from page 15 of the written submissions at Exhibit 35 spending about 9 pages on it, in the said portion, where Advocate for the charge sheeted employee, stated that, re-examination was held by the Enquiry Officer of Mr. Worlikar, the Goods Clerk, in order to fill the lacunas in the examination-in-chief and to patch the gaps. However, it is not pointed out to me which portion is objectionable in examination-in-chief of Mr. Worlikar. Witness No. 4, Mr. Jaiswal, of the First Party, prepared report about his evidence before the enquiry officer but the same was not made available to the charge sheeted employee when the Advocate of the charge sheeted employee was having opportunity to refer that and point out in the arguments, it is not done and just satisfying herself in saying like that as stage at page 18 in her submissions. It is further repeated that, Enquiry Officer was bias and was not an independent enquiry officer referring to statement of Mr. Jaiswal, PW 4 and of Mr. Tripathy. However, again it is not pointed out by referring to those particular statements of witnesses recorded in the enquiry to show, how it is like that. It is alleged that the Enquiry Officer did not probe into the working order. However, when Advocate of the charge sheeted employee was having the opportunity to probe into the working orders he did not did it and did not draw attention of the Tribunal to observe in her favour on working order of the charge sheeted employee. It is further alleged that, the Enquiry Officer did not discuss the evidence and findings are perverse. Again in that respect chargesheeted employee as well as arguments by his Advocate are very cryptic and not pointing to obvserve otherwise than observed by the Enquiry Officer.

18. In fact I find that, the charge sheeted employee and his defence counsel were not sure in what way the action taken by the management is to be defended and challenged. Even from the pleadings it appears that they were not sure how to defend the case and how to proceed with it. As stated in the entire "Statement of Claim" both are silent on the fairness of the enquiry and perversity of the findings. Not a single sentence is designed there in the Statement of Claim wherein they have challenged the enquiry and findings. As and when case proceeds and as and when both got an opportunity, they go on adding pleadings one by one e.g. they were not sure whether status of the charge sheeted employee was to be challenged, then they carried out amendment and pleaded that charge sheeted employee was the workman. Then evidence was recorded in it. Then afterwards, it was found charge sheeted employee and his Advocate pleaded somewhere about the enquiry and findings of it, regarding some averments were made in the affidavit still fail to make out specific case the height of it is that, number of averments they made in the written submissions which was not part of pleading having foundation in pleadings in the evidence of the charge sheeted employee. So question arises which is to be believed and what type of case is to be accepted of the Second Party ? No specific case is made out and charge sheeted employee goes on changing his stand at every occasion and date too at every stage of the proceedings of this Reference which definitely show that they are not sure about case of charge sheeted employee. Though Statement of Claim was amended nothing was stated about fairness of the enquiry and on recording of findings. Then affidavit was filed where something is tried to point out and in written submissions much development is made, though it is not shown to the Tribunal how enquiry was unfair, and how finding is perverse. In fact charge sheeted employee and her Advocate were having good opportunity to take the help of enquiry proceedings itself, evidence recorded by the enquiry officer, reasoning giving by him and to show at what place enquiry officer acted biasly and which evidence supports them but not considered and how finding is perverse. However, without referring to the enquiry proceedings and without referring to the findings of the Enquiry Officer just bold statement is made that the enquiry was not fair and proper and findings were perverse.

19. Considering that enquiry was conducted about which no case is made by the charge sheeted employee. I conclude that, enquiry was fair and proper as charge sheeted employee fails to point out how it was not fair and proper.

20. Now question remains of findings on which same can be observed as the enquiry was conducted fairly and finding was given by the enquiry officer relying on the evidence recorded before him. Enquiry Officer concluded that charge sheeted employee was responsible for the delay in placing the wagons and it resulted in revenue loss

in crores to the First Party. As far as delaying of placing of wagons and suffered loss in crores as alleged by the First Party in concern nothing specifically is stated by the charge sheeted employee and his Advocate. Even it is not denied that, there was no delay in placement of the wagons and loss was not occurred to the First Party as a result of it. On the contrary, charge sheeted employee and his Advocate were saying that, it is the collective responsibility and charge sheeted employee alone cannot be held responsible for the delay and for the demurrage collected by the Commercial Department. It is tried to explained by the charge sheeted employee that, it was duty of the Assistant Station Master and not of the charge sheeted employee. However, the fact is that, the charge sheeted employee was Station Master. Under him the Assistant Station Master and others were working. He was collectively responsible for the act of the staff working under him. By merely saying that, it is the collective responsibility is not sufficient. After all being the Station Master the charge sheeted employee was supposed to supervise the work of his staff and get the work done in right manner and in right spirit. Here, we find the said duty is not properly discharged by the charge sheeted employee for which he was appointed. He was supposed to supervise the staff in proper manner so that there should not be loss to the First Party and inconvenience should not cause to the public. But here something was as observed above is not done by the charge sheeted employee and that is his negligence and misconduct and for that he is held responsible by the Enquiry Officer holding that though he was Station Master and though he was supposed to supervise the work of his subordinates, and get the work done in the right manner and right spirit he failed to do so and was held responsible. When that conclusion has evidence base with the enquiry officer and when enquiry officer placed reliance on such type of evidence, question arises how findings can be treated perverse ? Perverse means which is not inconsistent with evidence and which is concluded against the facts which are brought on record and against the evidence. But here there was evidence before the enquiry officer. He was having the picture before him and relying on that, he concluded that, the charge sheeted employee was responsible and observed that, the charges levelled against the charge sheeted employee were proved.

21. In view of the discussion made above I conclude that the First Party succeeds in establishing that enquiry was conducted fairly and properly against the charge sheeted employee and the findings given by the Enquiry Officer of the enquiry which was conducted against the charge sheeted employee is not perverse. Accordingly as stated above I reply the issue in negative and pass the following order :

ORDER

(a) I declare that the charge sheeted employee is the "workman";

(b) I also declare that enquiry conducted against the charge sheeted employee was "fair" and "proper";

(c) I declare that findings of the enquiry officer against the charge sheeted employee is "not perverse";

(d) I direct both the parties to appear on 14th June, 2006 in this Reference for remaining part i.e. on the point of quantum of punishment and relief sought by the Charge sheeted employee.

Mumbai, 7 April, 2006 A. A. LAD, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एस. के. ए. एन. डी. (प्रा.) लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 15/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-29012/96/2001-आई आर (एम)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. S. K. A. N. D. (P) Ltd. and their workman, which was received by the Central Government on 6-6-2006.

[No. L-29012/96/2001-IR(M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 16th May, 2006

PRESENT :

Shri A. R. SIDDIQUI, Presiding Officer

C.R. No. 15/02

IPARTY	**IIPARTY**
Shri M. Masthan, Ex. Excavator Operator C/o Shri ARM Ismail, General Secretary, AITUC (Bellary Dt.) L.N. Complex, Bellary, KARNATAKA	The Secretary M/s. Skand (P) Ltd., Sandur (PO & Tq), Bellary District, KARNATAKA

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. [No. L-29012/96/2001IR(M)] dated 5th March 2002 for adjudication on the following schedule :

SCHEDULE

"Whether the action of respondent management of M/s. SKAND (P) Ltd, is justified in refusing the employment to the applicant, Shri M. Masthan, w.e.f. 4-1-2001 ? If not, what relief the workman is entitled to ?"

2. The case of the first party workman, as made out in the Claim Statement, in brief, is that he joined the services of the Second Party Management during 1996 as Excavator Operator. discharged his services diligently and honestly with unblemished service records; that the first party proceeded on leave w.e.f. 29-12-2000 for Ramzan Festival by applying for leave and since he fell ill and thereafter he sought extension of leave upto 3-1-2001. After availing the leave, he came to report for duty on 4-1-2001, the management did not allow him to resume duty without giving any reasons for refusing the employment. He made several attempts to report for duty but he was prevented from resuming duty. Then he approached ALC (Central) Bellary seeking the relief and the management filed their objection statement contending that first party was transferred to D3/2, Kakoda Industrial Estate, Kakoda, Goa w.e.f. 27-12-2000 but failed to report for duty though there was no transfer order issued to him at any point of time. Therefore, the action of the management in refusing work to him w.e.f. 4-1-2001 is unjust, illegal and arbitrary amounting to retrenchment as defined under section 2(oo) of the ID Act. He contended that the contention of the management that he was transferred to Goa w.e.f. 27-12-2000 and was relieved on the same day is false and incorrect as at no point of time there was any such transfer order issued or served upon him and he was also not issued with any notice or memo in this regard; that the first party has been deprived of means of livelihood in refusing employment to him illegally and therefore, award may be passed holding that the action of the management refusing work to him is unjust, illegal, void ab initio and inoperative and he may be reinstated in service with full back wages, continuity service and all other consequential benefits.

3. The management by its Counter Statement resisted the claim of the first party workman on several grounds, inter alia, contending that the reference on hand by the Govt. of India is bad for want of jurisdiction having regard to the fact that Central Govt. is not a proper Government to make the present reference to this tribunal as the management is not engaged in any mining industry or any industry under the control of the Central Govemment. This was stand taken by the management during the conciliation proceedings and despite the fact that the above said objection of the management has been referred in failure report submitted by the Conciliation officer, the present reference has wrongly been made to this tribunal by the Central Government and therefore, this court has no jurisdiction to entertain the same.

4. As far as merits of the case is concerned, the management while admitting the fact that the first party joined the services during the year 1996 as Excavator Operator however, contended that the first party was issued with an order of transfer transferring him w.e.f. 1-1-2001 and he was relieved of his duties on 27-12-2000 allowing him joining time till 31-12-2000 with a direction to report for duty on 1-1-2001 at D3/2 Kakoda, Industrial Estate, Goa. He refused to accept the transfer order without any justification and therefore, transfer order was sent to him by post on 29-12-2000, under certificate of posting. The management while denying the case of the first party that he proceeded on leave from 29-12-2000 onwards on the eve of Ramzan festival and then sought for extension of leave up to 3-1-2001 and thereafter reported for duty on 4-1-2001 and that the management refused employment to him on the above said date however, contended that the action of the management did not amount to refusal of employment as the first party himself remained absent from duty without obeying the transfer orders and therefore, the management was justified in treating the case of the first party as an unauthorized absence from duty and abandonment of his services on his own and thereby striking off his name from the roll of the management. Management contended that the first party has willfully and voluntarily abandoned his employment from 29-12-2000 by himself putting an end to the contract of service by remaining absent unauthorisedly from 29-12-2000 and therefore, it cannot be said that it was a case of refusal of the employment attracting the provisions of Section 2(oo) of the ID Act.

5. During the course of trial, the management examined one witness as MW1 said to have been working as Assistant General Manager (Accounts) of the management and in his further examination chief got marked eight documents at Ex. M1 to M8 namely the objection statement filed by it before the ALC(C), Bellary, rejoinder filed by the first party, reply given by the management to the rejoinder, factual report, Postal Slip, four show cause notices at Ex. M6, transfer order and four postal slips respectively. His affidavit since is the replica of the various contentions taken by the management in the Counter Statement need not be once again repeated.

6. On his part the first party examined himself as WW1 once again repeating the various contentions taken by him in his Claim Statement. His statement relevant for the purpose is that there was no transfer order dated 27-12-2000 issued against him and he was not served with

the said transfer order either on the above said date nor he did not receive any show cause notice at Ex.M6 series as stated by MW1. He stated that he did not receive any notice or memo from the management nor he was paid any compensation amount before he was refused work. I would like to refer to the statement of MW1 and WW1 made in their cross-examination as and when found relevant and necessary.

7. Learned counsel for the first party argued that first of all the contention raised by the management that the present reference made by the Central Government is without jurisdiction has not been pursued by the management and even otherwise the management cannot be allowed to raise such a contention before this tribunal without producing any documentary evidence to suggest that the second party management is not an 'Industry' coming under the control of the Govt. of India. He also contended that if at all the management was aggrieved by the present reference the proper remedy available to it was to challenge the same before the proper forum and not before this tribunal. On merits of the case learned counsel submitted that the plea of transfer order taken by the management before the ALC, Bellary is an afterthought and motivated there being no such transfer order either issued or served upon the first party at any point of time. He submitted that there was no question of disobedience of transfer orders when they were not served upon the first party much less issued against him and in the result there was no question of the first party remaining unauthorisedly absent from duty w.e.f. 29-12-2000 and thereby abandoning his services justifying the action of the management in removing his name from its roll. He submitted that if at all there was any transfer order and it was refused by the first party as on 27-12-2000 then nothing prevented the management to serve the said transfer order upon him by issuing the same under registered post but in this case very strangely the management said to have issued the orders of transfer 'under certificate of posting' and thereafter said to have issued show cause memos to him once again "under Certificate of posting". Therefore, learned counsel submitted that when there is no proof made available to this tribunal for service of the transfer order as well as show cause notices upon the first party then the question of the first party not obeying the same and remaining absent from duty never arose so as to invite the action on the part of the management to strike off his name from its roll and thereby terminating his services. He submitted that the action of the management therefore, amounts to retrenchment and since there was no compliance of Section 25F of the ID Act, it is a case of illegal termination liable to be set aside by this tribunal as illegal and void ab initio. In support of his argument learned counsel cited the following six decisions :

1. 1982 I LLJ page 330
2. 1993 LLR page 139
3. 1993 LLR Page 385
4. 1995 LLR 420
5. 2004 LLR 1002

8. Whereas, learned counsel for the management has submitted his written arguments once again repeating the various contentions taken by the management in the Counter Statement and taking the support of oral testimony of MW1 and the documents produced by it to justify the action of the management that it was a case of unauthorized absence from duty not obeying the lawful order issued by the management resulting into the abandonment of the services and the removal of his name from the roll of the management. Once again it was urged in the argument that the management is not an "Industry" controlled by the Govt. of India and therefore, the reference by the Central Government is without jurisdiction. Learned counsel also cited the decisions on the point that the management had every authority under its Standing Orders and in the light of the appointment issued to the first party to transfer him from one place to another in the interest of administration of the management.

9. After having gone through the records, I find substance in the arguments advanced for the first party. First of all coming to the legal contention taken by the management that it is neither a mining industry nor the activities of the management come under the control of the Central Govt., the very opening suggestion made to the first party in his cross-examination would belie the contention of the management that it is not a Mining Industry. A suggestion was made to first party that the management has got its mining operations in Goa and to that the first party had shown his ignorance. Then it was elicited from his mouth that as far as the management company is concerned, it has no mining operations elsewhere so there is no question of any transfer of workman from mine to another. Therefore, the very suggestion made to the fisrt party on behalf of the management would show that it is a Mining Industry. Now the next contention of the management that it is not an industry under the control of Govt. of India, as argued for the first party is not supported by any oral or documentary evidence except the bald statement of MW1. If really the management was not an Industry under the control of the Govt. of India and was under the control of the State Govt. as contended by it, then nothing prevented the management to produce some evidence in the form of documents to prove its point. That apart if the management was aggrieved by the present reference made by the Central Government on the ground that it was not an 'Appropriate Government' then it had a remedy available to approach the proper forum and to see that the orders of the central Government makig reference to this tribunal were quashed. Therefore, after having failed to do so the management now cannot be allowed to take the contention before this tribunal to say

that the rerference is without jurisdiction and is not maintainable before this tribunal.

10. Now coming to the merits of the case, there are two specific contentions taken by the management to justify its action in striking off the name of the workman from its roll. The first contention of the management is that the first party did not obey the orders of transfer and remained absent from duty unauthorisedly w.e.f 29-12-2000. He did not report for duty despite the various show cause notices issued to him as per Ex. M6 series and therefore, it was a case of unauthorized absence and disobedience of lawful orders of the management company. The Second contention of the management was that the above said unauthorized absence on the part of the first party tantamounts to abandonment of his services, voluntarily.

11. As noted above, the first party in no uncertain terms has taken a contention that the story of the transfer order put forth by the management is false, concocted and an afterthought and that in fact no such transfer order was made nor it was served upon him and that he was also not served with any show cause notice marked at Ex. M6 series before this tribunal. The management in order to prove that there was a transfer order at Ex. M7 issued by the management and then it was issued to the first party, produced before this tribunal a postal slip dated 29-12-2000 for having sent the transfer order to the first party "under certificate of posting" marked at Ex. M5. Except the above said slip, absolutely no other evidence is on record to suggest that the transfer order was served upon the first party. There is absolutely no explanation offered by the management as to why it did not make any attempt to serve the above said transfer order upon the first party by way of registered post or at least personally when he was very much available with the management on 27-12-2000 and on 4-1-2001. An attempt was made by the management to say that while first party was on duty on 27-12-2000 the management wanted to serve the transfer order upon him but he refused to take and therefore, it was sent to him under certificate of posting. This contention of the management has to be discarded in the light of the very wordings of the show cause notice dated 30-1-2001 itself. From the reading of the said show cause notice it can be very well gathered that the management expressed its regrets for the first party not resuming duty at the place of transfer despite having been relieved from duty on 27-12-2000 itself. There is absolutely no mention of the fact that the transfer order in question was tried to be served upon the first party on 27-12-2000 itself and he refused to receive those transfer orders. Therefore, as argued for the first party the above said contention of the management is an after thought and motivated one. That apart, the case of the first party that after having availed the leave when he wanted to report for duty on 4-1-2001 the management refused to take him on work. The fact that first party went to the management to report duty on 4-1-2001 has not been very much disputed. On the other hand a suggestion was made on behalf of the management to the first party in his cross-examination that when he went to report duty on 4-1-2001 the management asked him to report duty at Goa. This again an improvement made in the story put forth by the management as no where in the counter statement such a plea was taken by the management. Therefore, when we proceed on the assumption that the first party visited the management on 4-1-2001 to report for duty then it was very easy for the management to have served the transfer order upon him personally calling upon him to report duty at Goa, the place of his transfer. There is no explanation offered by the management as to why the transfer order was not served upon the first party on the date he visited the management nor there is any explanation offered to show as to why the management was content enough to send the transfer order to the first party just by way of certificate of posting and not by the mode of registered post. His Lordship of Hon'ble High Court in the above said case reported in 1995 LLR 420 have observed that the service by way of certificate of posting was not sufficient and proper service and the management ought to have made the service either by Muddam book or by Registered Acknowledgment Due Post. Therefore, since the management did not send the notice by the aforesaid modes, the enquiry held against the delinquent concerned was bad in law and against the principles of natural justice. In the instant case again to reliance can be made on the aforesaid certificate of posting for having served the transfer order upon the first party particularly when it is not the case of the management that the orders were served upon him by another mode much less by way of Registered Post Acknowledgment Due. Similar is the fact with the aforesaid show cause notices at Ex. M6 series. These notices were again sent to the first party in the very words of the management witnesses under certificate of posting not at once but on as many as six occasions. It is very difficult to appreciate rather to accept the contention of the management that it adopted the practice of sending transfer orders and show cause notrices to the first party just by way of certificate of posting. One can understand that such a mode was adopted by the management on one or two occasions but here is the case that the management sent the orders and the show cause notices on six occasions and never bothered to send those orders and notices to the first party atleast once under Registered Post with Acknowledgement Due. It is here again one cannot brush aside the argument advanced by the first party that these show cause notices and transfer orders are brought in picture after the first party approached the ALC, Bellary seeking redressel of his rights and that they were not in existence on the dates mentioned therein. Therefore, when there was no service of the transfer order or the show cause notices upon the first party then it goes without saying that there is no question of first party not obeying the above said transfer orders and then remaining absent

from duty unauthorisedly so as to lead to the conclusion that it was a case of abandonment of services and therefore, there was justification in striking off the name of the first party from the roll. It is to be made clear at this Juncture itself that when the management comes up with the case that it was a case of disobedience of lawful orders of the management company amounting to indiscipline and misconduct under the Standing Orders of the management, then it is yet to be explained by the management as to why there was no disciplinary action taken against the first party, issuing any charge sheet and conducting any DE for the said misconduct.

12. Now coming to the contention of the abandonment of the services, it has to be rejected on its face itself firstly for the reason that there was no case of unauthorized absence made out by the management by any oral or documentary evidence nor the management has taken any steps against the first party by way of disciplinary action for his alleged unauthorized absence or his alleged disobedience of lawful orders. Therefore, when the management fails to establish that there was any disobedience of lawful orders or that the first party remained unauthorisedly absent from duty then the only inference to be drawn would be that there was no case of abandonment of services by the management. Moreover, in the case of abandonment plea taken by the management it was again necessary for the management to establish before this tribunal as what action it has taken against the first party. As noted above, the above said show cause notices have not been served upon the first party and there is no disciplinary action taken against him conducting an enquiry issuing charge sheet alleging that he abandoned the services on his own. Therefore, as argued for the first party it was a clear cut case of retrenchment when the services of the first party have come to be retrenched not on the ground mentioned in the Exception Clause 2(oo) of the ID Act then it will be a case of retrenchment. Their Lordship of Supreme Court in the case of L. Robert V/s. Executive Engineer referred to supra have made the position very clear on this point. It is held that if termination of service of a workman is brought about for any reason whatsoever. It would be rerenchment, except if the case falls within any of the excepted categories mentioned in Section 2(oo) of the ID Act. His Lordship of Hon'ble High Court in the case of Arun Kumar Mathur referred to supra made the point clear by laying down the principle that striking off the name of the workman for remaining absent on the ground of abandonment is the case of retenchment under Section 2(oo) of the ID Act. Similar is the view taken by his Lordship of Punjab and Haryana High Court in the case of Harisingh referred to supra. In this case undisputedly the management has not complied with the requirements of Section 25F of the ID Act and therefore, there cannot be any difficulty to hold that it was a case of illegal retrenchment amounting to illegal termination liable to be set aside by this tribunal as illegal and void ab initio. The various decisions cited on behalf of the management as argued for the first party are not applicable to the facts and circumstances of the present case and the point of law and fact involved in the matter. These are the decisions mostly involving question of authority of the management in passing the orders of transfer on its employed and since in the instant case order of transfer itself was not proved to be issued and served upon the first party, there is no need for this tribunal to comment upon the controversy as to whether the management had any right to transfer the first party in this case from one place to another. Now, therefore, in the light of the aforesaid finding holding the action of the management unjust and illegal, the only consequences to follow would be the reinstatement of the first party into the services of the management to the post he was holding at the time of removal of his name from the roll.

13. Now coming to the question of back wages, the first party in his examination chief has stated that he is now without employment and is ready to join the work if offered by the management. There was no cross-examination of the first party either denying his said statement or making a suggestion that he has been gainfully employed when he was not in the service of the management. There is also no evidence produced by the management except the statement made at Para 8 of the affidavit of MW1 filed before this tribunal. It was contended that first party had been working with M/s. R.P.P. Mines at Haveri and has been gainfully employed but there was absolutely no evidence produced by the management to substantiate this fact. However, there was also no denial on the part of the first party that he has not been working with the said Mines at Haveri subsequent to his removal from service. Therefore, keeping in view the facts and circumstances of the case and not loosing the sight of the fact that the first party will not be idling himself without any work earning his livelihood from the date of the termination of his services till today, it will be in the interest of justice to restrict the claim of back wages at 70 percent of tha last drawn wages with continuity of service and other consequential benefits. Hence the following award :

AWARD

The reference is partly allowed and the management is directed to reinstate the first party into its service with 70 percent back wages from the date of termination till the date of reinstatement with continuity of service and all other cosequential benefits. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 16th May, 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईंस के प्रबंधतंत्र के संबद्ध नियोजकों और इनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 58/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-43012/16/2000-आई आर (एम)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines and their workmen, which was received by the Central Government on 6-6-2006.

[No. L-43012/16/2000-IR(M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 22nd May, 2006

PRESENT:

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 58/2000

Shri Karunanidhi,
R/at Sh. Divakar Bunglow,
Nr. Bullens Shaft.
Oorgaum Post.
Kolar Gold Field. ... I PARTY

The Managing Director,
Bharat Gold Mines Ltd.,
Oorgaum Post.
Kolar Gold Field. ... II PARTY

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/16/2000/IR(M) dated 31st July, 2000 for adjudication on the following schedule.

Schedule

"Whether M/s. Bharat Gold Mines Ltd. KGF is justified in terminating the services of Shri Karunanidhi (PE No. 129222) ? If not, to what relief the workman is entitled to ?"

2. The case of the first party workman, as made out in the Claim Statement, in brief, is that as a General Labour at Bharat Gold Mines Ltd., KGF (Management company) he was carrying on duty to his fullest ability and to the entire satisfaction of his higher officials. However, he was surprised that on some false complaint the management dismissed him from service vide order dated 7th August 1998, on the basis of the enquiry findings conducted by the office of the management itself holding him guilty of the charges of misconduct. Enquiry was conducted without following the procedure laid down under the law; that the first party was working as a General Labour nothing to do with the computer work; that after the computer work it will go to the Industrial Engineer for his approval and on his approval that will go to the pay unit for the verification and therefore, knowing very well that first party is in no way connected with the computer work he has been removed from service against the principles of natural justice despite the explanation submitted by him that he was not involved in the above said work and he was innocent in the matter. Therefore, he requested this tribunal to set aside the dismissal order passed against him and to pass necessary orders and directions deemed fit by this tribunal in the interest of justice and equity.

3. The management by its Counter Statement resisted the claim of the first party and inter alia contended that though the first party was a General Labour yet on his request he was allowed to work for some period in one of its Time Section (Nundydroog Time Section) and that while he was carrying out the job in the said section he had received incentives to which he was not eligible and he claimed the same in the names of other employees but mentioning his PE No. as the computer will accept only PE No. and not the name and thereby he received an incentive amount of Rs. 20,000 in the name of others. He had also claimed incentive every month for the employees who were not eligible by putting the roll and PE No. of the employees belonging to other Mines. Similarly the individual amount of the incentive payable to the employees and cleared by the Industrial Engineering Department have been altered by the first party and communicated subsequently before being fed to the computer. Therefore, keeping in view the seriousness of the misconduct committed by the first party, he was placed under suspension pending enquiry soon after the complaints were received. He was chargesheeted and his explanation to the charge sheet not being found satisfactory, DE was ordered against him which was conducted in Tamil language known to him and he was given sufficient opportunity to defend himself taking the services of his co-worker and accordingly he took the services of Union representative in defending himself. During the course of enquiry management witnesses were examined along with the complainants and the first party

was being supplied with the day to day proceedings copies and he acknowledged those copies by signing the proceedings. On the basis of the enquiry findings holding him guilty of the charges he was issued a show cause notice proposing the punishment of dismissal and since the explanation offered by him was not convincing, he was dismissed from service. The management also took up the contention that its company had incurred loss consistently and the matter has been referred to BIFR under Sick Industrial Companies (Special Provisions) Act, 1985. The BIFR after considering the matter has formed the opinion that the company is not viable and as such has recommended winding up of the company. Then the matter came up before the Hon'ble High Court and the same is pending in Co. P. No. 180/2000. In the meanwhile the Govt. of India by its order dated 29-1-2001 has passed the order for closure of the company under Section 25(oo) of the I. D. Act and the company has been closed w.e.f. 1-3-2001. The order of BIFR was challenged by the union representing the working along with the order of the Govt. of India and their Writ Petition was allowed by learned single judge that order being challenged in WA No. 1747 to 1757/2001, the division bench of the High Court by order dated 26-9-2003 set aside the order passed by the learned single judge dismissing the writ petition filed by the union. Therefore, this being the position, the winding up procedure before the high court will be proceeded ahead and in the result no relief can be given to the first party workman. Therefore, reference is liable to be rejected.

4. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal by its order dated 1-7-2004 framed the following Preliminary Issue :—

> "Whether the Domestic Enquiry conducted against the first party by the Second Party is fair and proper ?"

5. During the course of trial, the management examined the enquiry officer as MW1 getting the documents marked at Ex. M1 to M5 and the first party examined himself without marking any document.

6. After hearing the learned counsels for the respective parties, this tribunal by its order dated 19-8-2005 recorded a finding that the DE conducted against the first party by the Second Party management is fair and proper and thereupon the matter came to be posted for hearing on the point of perversity of the findings and the quantum of the punishment.

7. Learned counsel for the first party on merits of the case argued that the findings of the enquiry officer are just based on the evidence of the management witnesses and therefore, the testimony of the management witnesses being entrusted and self serving, charges of misconduct cannot be taken to be proved by sufficient and legal evidence. His next contention was that there was no Police complaint filed against the first party and that shows that there was no misappropriation of the funds by him and that DE conducted against him was tainted and motivated just to punish the workman and to save the skin of other officials of the company who in fact were responsible for the amount misappropriated.

8. Whereas, the learned counsel for the management supported the findings of the enquiry officer contending that charges of misconduct have been proved against the first party not only by oral testimony of the witnesses but also with the help of voluminous records maintained by the management and the findings of the enquiry officer is very much supported by sufficient and legal evidence and cogent reasonings and that there is no perversity in the findings.

9. After having gone through the records, the oral and documentary evidence brought on record during the course of enquiry and the findings of the enquiry officer, I do not find much substance in the arguments advanced by the first party. From the perusal of the proceedings of enquiry it can be seen that the management during the course of enquiry examined as many as 7 witnesses and got marked in all 44 documents at Ex. P1 to P44. Learned enquiry officer after having brought on record the oral testimony as well as the documents produced by the management, in the enquiry findings formulated the following three points :—

1. Whether Shri Karunanidhi has been paid a sum of Rs. 27,000 towards incentive for the period from January 1995 to July 1997.
2. Whether he himself has arranged for these payments in his account.
3. Whether Shri Karunanidhi has arranged for payment towards incentive for a sum of Rs. 38,334.41 for the period from January, 1995 to July, 1997 for employees who are not eligible for any incentive by giving PE Nos. and wrong names which do not belong to the respective PE Nos. and which belongs to different units.

10. While discussing the evidence i.e. the oral testimony of the management witness, Shri Krishnappa, Manager (IA) and the documentary evidence namely the pay rolls for the period from January 1995 to July 1997 marked at Ex. P1 to P29, the learned enquiry officer observed that the testimony of the said witness and the documents would indicate that a sum of Rs. 20,842.62 has been paid to the first party through the pay rolls by crediting the amount to his bank account as per the documents at Ex. P1 to P29.

11. The Second Witness, Shri Natarajan, PRA had spoken that the first party was also eligible for certain amount of overtime details of which are given as per Ex. P50 but he has been paid excess of Rs. 18,901.62 as an

incentive for which he was not eligible as shown in Ex. P1 to P29. Therefore, relying upon the testimony of the above said two witnesses and the aforesaid documents, learned enquiry officer recorded his finding on the first point to the fact that it has been proved to the extent of Rs. 18,901.62.

12. While recording his finding on the second point raised above, the learned enquiry officer as could be read from the enquiry findings on page 11 & 12, has taken into account the documentary evidence produced by the management at Ex. P32 to P44 and the oral testimony of the above said two witnesses who made a statement to the effect that all these documents has been prepared by the first party in his own handwriting and he has also initiated at the bottom of the page and alteration have also been made by the first party himself for his benefit. The relevant observations made by the Enquiry Officer on the point on page 11, 12 & 13 read as under :—

> "In order to prove the second point there are documentary evidences i.e. Ex. P 30, 31, 32. 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44. S/Shri Natarajan and Krishnappa stated that all these exhibits have been prepared by Shri Karunanidhi in his own handwriting and also he has initiated at the bottom of the page and the alteration have also been made by Shri Karunanidhi himself for his benefit. As per Ex. P 30, Sl. No. 14 Shri Karunanidhi has written his PE No. but the name belong to Venkatesh for a sum of Rs. 600. As per Ex. P 31, Sl. No. 11 Shri Karunanidhi has written his PE No. i.e. 129222 but the name belong to Paul Augustine and the amount was Rs. 410. As per Ex. P 32, Sl. No. 27 Shri Karunanidhi has written his PE No. but the name as Venkatesh for a sum of Rs. 465. Ex. P 30, 31 and 32 have not been cleared by PRA and IED and Shri Karunanidhi had unauthorisedly prepared these exhibits and allowed the benefit for himself.
>
> In Ex. P 33, Sl. No. 4 for a sum of Rs. 600 for his PE No. 129222 but the name as Seenappa. As per the evidence Sri Natarajan after getting his signature Shri Karunanidhi has altered the Sl. No. 4 but it is also observed from this exhibit that PE number has been altered in favour of Shri Karunanidhi. Shri Karunanidhi has also said that alteration has been made by Shri Karunanidhi. As per Ex. P 34, Sl. No. 1 Shri Karunanidhi has been benefited by a sum of Rs. 833 towards incentive which he is not eligible and as per the evidence of Shri Natarajan Shri Karunanidhi without getting clearance from him and IED has arranged benefits not only for him and also to other persons entered in the Ex. P. 34. It is also evident from Shri Natarajan's statement that Shri Karunanidhi after clearance from him and IED in Ex. P. 35 unauthorisedly altered the amount of Rs. 50 in Sl. No. 10 as Rs. 450 and also added his name in Sl. No. 12 and arranged for feeding to the computer thereby Rs. 800 has been paid to him unauthorisedly although he is eligible for only Rs. 50. It is also in the evidence of Shri Natarajan that Ex. P. 36 was prepared by Shri Karunanidhi and got it cleared by Shri Karunan and also IED and after getting clearance he has inserted a 4 names and last one being in the name of Shri Karunanidhi and taken Rs. 800. It is observed from this exhibit that the last 4 names were added subsequent to the signatures of IED and PRA.
>
> Ex. P 37 also was prepared by Shri Karunanidhi and cleared by IED. Against Sl. No. 26 Shri Karunanidhi has written his name and PE No. subsequent to clearance by IED and added Rs. 600 thereby got undue benefit.
>
> As per Ex. P. 38 Shri Karunanidhi has written himself the name and PE No. and entered Rs. 800 and it is not been cleared either by PRA or by IED. It is also in the evidence of Shri Natarajan that Ex. P 39 was prepared by Shri Karunanidhi and against Sl. Nos. 12, 19, 20, 24, 25, 26 Shri Karunanidhi has written his PE No. against different names and got the benefit unauthorisedly but this exhibit has not been cleared by PRA although Shri Karunanidhi should have got this paper routed through PRA.
>
> Ex. P 42 was prepared by Shri Karunanidhi in his own handwriting which was not cleared by PRA but cleared by IED and subsequent to clearance added a list of 4 names i.e. Sl. No. 20 to 23 and taken benefit to himself for a sum of Rs. 900 by writing his PE No. and name. As per Ex. P 44 which was prepared by Shri Karunanidhi himself and after getting clearance by PRA has altered the figure of Rs. 63 to Rs. 263 against his name.
>
> Shri Natarajan has also stated that Shri Karunanidhi was incharge of the preparation of the incentive amount for the period from January, 1996 to July 1997 independently and he was associated in the said work along with Shri Selvanayagam in the said work from 1993 to 1995. Although the supplementary pay rolls/paid up sheets were produced from June 1996 to May 1997. The Ex. P1 to Ex. P 29 reveals that he has been paid a total sum of Rs. 20842.62.
>
> Shri Natarajan has stated that Shri Karunanidhi was only incharge of incentive calculation for the entire period and none other than him would have fed these incentive amount as he is the beneficiary. Further Ex. P 30, 31, 32, 34, 37 and 40 reveals that even without clearance of PRA and IED Shri Karunanidhi has submitted the incentive calculation to the Pay Roll Unit for putting batch numbers and thereafter to Computer Centre for feeding into the computer which clearly shows that Shri Karunanidhi has made use of

the opportunity of being incharge for working out the incentive calculations to get the undue benefits to the extent of Rs. 18901.62 for the period from January, 1995 to May 1997. These exhibits also beings out clearly the dishonest act on the part of Shri Karunanidhi where he had allowed the undue benefit of Rs. 18901.62 to himself.

13. On the 3rd point once again the learned enquiry officer based his findings on the oral testimony of said two witnesses and the documentary evidence at Ex. P 40 to P 44 describing them in detail and also referred to the statements of said two witnesses who stated that these were the documents written by the first party himself and he had initiated and the payment has been made to the persons whose PE numbers have been mentioned, as computer would accept only PE numbers and not the names of the persons. They also had spoken to the fact that the pay roll Ex. P 45 revealed that amount has also been fed into the pay rolls and it is the first party only has arranged for the aforesaid payments. While referring to the contentions urged by the first party as to why the above said oral and documentary evidence could not be relied. The learned enquiry officer has given the reasonings on pages 14 and 15 as under :—

"All the paid up sheets have been written by him in his own handwriting i.e. Ex. P. 30 to P 44. As per the statement of Shri Natarajan, PRA Shri Karunanidhi who was working in the Time Office was looking after the incentive independently from January 1996 and he was also associated in the said job with Shri Selvanayagam, Clerk from 1993 to 1995. Since he is working in the Time Office and prepared the paid up sheets it is his duty to mention correct PE number and names. On the other hand he had given his worn PE No. and written different names as per Ex. P 30 to P 39 and thereby the benefits have gone to him. Similarly he also written different PE Nos. and different names which do not tally as per Ex. P 40, P 41, P 42, P 31, P 32, P 34, P 43 and P 44. If he had no mala fide intention he would have not written different names against his PE No. It is also seen from Ex. P 30 that this exhibit has not been cleared either by IED or by PRA. Further in Ex. P 31 after getting clearance of 3 names from PRA and IED he had written on the reverse side 28 PE Nos. and also the incentive amount of which one PE No. belong to him. Similarly without clearance from IED and PRA Ex. P 32 was prepared by Shri Karunanidhi thereby 28 persons unauthorisedly benefited. Also Ex. PE 34 was unauthorisedly prepared by Shri Karunanidhi without clearance from IED and PRA and 30 persons have been paid unauthorisedly. Similarly Ex. P 40 has also not been cleared by IED and PRA and there was no reason for Shri Karunanidhi to arrange for payment without clearance from PRA and IED. In some of the cases like Ex. P 37, P 39, P 42 without clearance from PRA Shri Karunanidhi got clearance from IED. There was no reason for Shri Karunanidhi to bye-pass PRA which clearly shows his mala fide intention. Hence his contention that he is innocent is untenable. There was no need for him to mention different PE Nos. and different names and putting blame on the IED to check the same cannot be accepted. When he had not routed the paid up sheets through proper channel i.e. The entire alterations and unauthorized preparation of paid up sheets clearly indicates that he has mala fide intention to get undue benefits to himself and others unauthorisedly.

14. Therefore, from the oral and documentary evidence produced by the management and discussed at length by the Enquiry Officer giving out all the details of the oral testimony of witnesses as well as the documents in his findings, it becomes crystal clear that there was sufficient and legal evidence pressed into service on behalf of the management to established the charges of misconduct levelled against the first party. By going through the oral and documentary evidence, the discussion made by the enquiry officer and the reasonings given by him, by no stretch of imagination it can be said that the findings of the enquiry officer were not supported by sufficient and legal evidence and that they suffered from any perversity. Moreover, as noted above, learned counsel for the first party in his argument did not highlight any infirmity or material defects much less pointing out any legal or factual infirmities committed by the enquiry officer in coming to the conclusion that charges of misconduct have been proved against the first party. He failed to convince this tribunal as to how the aforesaid oral and documentary evidence brought on record was not sufficient and satisfactory to establish the charges of misconduct against the first party. In fact there was no argument for the first party to say that enquiry findings suffered from perversity except to say that witnesses examined during the course of enquiry were interested in the management being the employees of the management company. Merely because the witnesses happened to be the officials of the management company it cannot be said that they were in anyway interested in the case of the management particularly when there was no suggestion made to these witnesses in their cross-examination attributing any sort of motive in giving the evidence against the first party. That apart the oral testimony of the management witnesses was corroborated and supported by voluminous documentary evidence maintained by the management company, the genuineness of which yet to be challenged by the first party.

15. The next contention of the first party that if at all there was any incident of misappropriation of funds belonging to the management company, there should have been some police complaint against him, I do not find much

substance in that contention again. It is left to the management to proceed against the workman by registering a police complaint, simultaneously, taking disciplinary action against him or just initiating the disciplinary proceedings only without filing any police complaint. Therefore, only because there was no police complaint filed it cannot be said that there was no misappropriation of the funds taken place and that the first party was not responsible for the same. Therefore, in the light of the above, this tribunal has no hesitation in its mind to come to the conclusion that findings of the enquiry officer do not suffer from any perversity and that charges of misconduct against the first party have been proved by sufficient and legal evidence.

16. Now coming to the question of quantum of punishment, of course keeping in view the gravity of the misconduct committed by the first party, it cannot be said that the action of the management was illegal and unjust and that punishment of termination was in any way disproportionate to the gravity of the misconduct committed by him. However, taking into consideration the fact that the first party was in the services of the management as a General Labour, the entrustment of computer work to him by the management was not advisable. Therefore, this being a mitigating circumstance in favour of the first party, the order terminating his services can be justifiably converted into an order of Compulsory Retirement. Hence the following award :

AWARD

The order passed by the management terminating the first party is hereby replaced by the order retiring the first party workman compulsorily from the services and he shall be entitled to all the benefits under the scheme of the Compulsory Retirement including the benefit of payment of gratuity amount. This order of compulsory retirement shall be taken from the date of termination order passed by the management. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 22-5-2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एस. जी. एस. (इण्डिया) प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई के पंचाट (संदर्भ संख्या 37/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-29011/1/2004-आई आर (एम)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/20004) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. S. G. S. (India) Pvt. Ltd. and their workmen, which was received by the Central Government on 6-6-2006.

[No. L-29011/1/2004-IR(M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, CAMP : GOA

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-37 of 2004

PARTIES:

Employers in relation to the management of M/s. S. G. S. (India) Pvt. Ltd.

AND

Their Workmen

APPEARANCES:

For the Management	:	Mr. Dilip Rege, Branch Manager
For the workman	:	Mr. S. S. Naik, Adv.
State	:	Goa

Goa, dated the 17th day of May, 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of Sub-section 1 and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi, Order No. L-29011/1/2004-IR(M) dated 31-3-2004. The terms of reference given in the schedule are as follows :

> "Whether the action of the management of M/s. S. G. S. (India) Pvt. Ltd. Goa in discontinuing the services of S/Sh. Santosh Naik and Ramesh Naik w.e.f. 6-8-2003 is legal and justified ? If not, to what relief the workmen are entitled for ?"

2. The matter came up for hearing today at Goa camp. Shri Dilip Rege, Branch Manager present for State Bank of India, Mr. S. S. Naik present for the Union. The parties have filed the Settlement of claim amicably. It is reported

that the settlement has already been implemented w.e.f. 1st January, 2005 and at present no dispute exists.

In view of the Settlement, the reference is disposed of.

Justice GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 61/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-17011/1/2000-आई आर (बी-II)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation and their workmen, which was received by the Central Government on 6-6-2006.

[No. L-17011/1/2000-IR(B-II)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 61 of 2000

In the matter of dispute between :

The General Secretary,
NCZ Insurance Employees Association,
70-D, Shyam Nagar,
Kanpur.

AND

Life Insurance Corporation of India,
The Divisional Manager, LIC of India,
M. G. Marg, Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-17011/1/2000/IR (B-II), dt. 5-6-2000 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Life Insurance Corporation of India in withholding stagnation increment of Sri Raj Kumar Bajpai is justified ? If not, what relief the workman is entitled for ?

2. In the instant case after exchange of pleadings and evidence of the parties when the case was taken up for dictating award it was noticed by the tribunal that the date of withholding stagnation increment of the workman has not been mentioned in the schedule of reference order.

3. Further if on the basis of evidence of the parties tribunal is of the opinion that the action of the management is neither just nor proper and nor legal then normal question arises before the tribunal as to from what date the concerned workmen be held entitled for relief of the withheld stagnation increment specially when there is no mention of the date of withheld increment by the management in the schedule of reference order. It therefore appears that the schedule of reference order is vague and therefore cannot be answered in the absence of specific mention of date of withholding of stagnation increment in respect of the concerned workman.

4. In the last it is held that the schedule of reference order is vague and cannot be answered by the tribunal unless there is mention of specific date of withholding stagnation increment. Reference is therefore answered accordingly against the workman holding that the workman cannot be held entitled for any relief on the basis of such vague schedule of reference order.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 7 जून, 2006

का. आ. 2443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सेसा गोआ लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, मुम्बई के पंचाट (संदर्भ संख्या 2/18/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-2006 को प्राप्त हुआ था।

[सं. एल-29012/48/2003-आई आर (एम)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 7th June, 2006

S.O. 2443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/18/2003) of the Central Government Industrial Tribunal-cum-Labour Court-2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. SESA Goa Limited and their workmen, which was received by the Central Government on 6-6-2006.

[No. L-29012/48/2003-IR(M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI

PRESENT :

Shri A. A. Lad, Presiding Officer.

Reference : CGIT-2/18 of 2003

Employers in relation to the Management of :

M/s. SESA Goa Limited,
The Managing Director,
M/s. Sesa Goa,
Sesa Ghor, Patto Panji,
Goa

AND

Their Workmen
Shri Premanand Ghadi,
R/o. Ghadiwada, Virdi,
P. O. Sanquelim, Goa.

APPEARANCE :

For the Employer : Mr. P. J. Kamat, Advocate.

For the Workmen : Mr. R. D. Mangueshkar, Advocate.

Date of reserving Award : 19th April, 2006

Date of passing of Award : 8th May, 2006

AWARD—PART-I

The facts of this Reference are as under :

2. The Under Secretary to the Government of India (Bharat Sarkar), Ministry of Labour, New Delhi sent this Reference under Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 regarding workman Shri Premanand Ghadi mentioning Schedule as follows :

> "Whether the action of the Management of M/s. Sesa Goa Ltd. in discharging Shri Premanand Shiva Ghadi, Heavy "AAA" Driver, from the services w.e.f. 18-4-2001, is legal and justified ? If not, to what relief the workman is entitled for ?"

3. To support the claim Second Party workman made out the case by filing Statement of Claim at Exhibit 7 contending that he joined First Party as "AAA" Driver at Sonshi in October, 1985 and was confirmed in the year 1986. According to Second Party workman First Party is the Company engaged in mining operations of excavation of iron ore deposits and exporting the same to the various other countries. Said First Party has its registered office at Sesa Ghor, EDC Complex, Patto, Panjim, Goa.

4. According to Second Party Workman he was active member of the Sesa Goa Worker's Union. He was involved in Union activities and was responsible for various events in the labour field of the First Party i.e. SESA.

5. On 4th February, 2002 he was served with memo regarding his absence on 14-11-2001, 4-12-2001, 19-12-2001, 25-12-2001 and 26-1-2002. According to him all those were public holidays and as such he was not supposed to attend on those days, still unnecessarily he was served with the said memo. Accordingly he gave explanation dated 11th February, 2002 denying his absence and explaining why he was absent on those days. He, further states that thereafter he was served with Show Cause notice alleging misconduct done by the Second Party Workman. The said Show Cause Notice was dated 27th March, 2002 by the said notice it reveals that First Party had made mind to terminated the Second Party Workman by hook or by crook. In the said notice dated 27th March, 2002 number of previous memos were referred by the First Party i.e. memo dated 4-2-2002 reply given on it and letter given by First Party dated 27th February, 2002 and reply of the Second Party Workman and concluded that why action should not be taken against him. In the said notice dated 27th March, 2002 allegations of habitual absence without leave were leveled against Second Party Workman and he was directed to explain those within 48 hours about his absenteeism. Second Party Workman states that he explained the said absenteeism by his letter dated 28th March, 2002 denying that he purposely remained absent on those days as mentioned in the notice dated 27th March, 2002. According to him Workman remained absent on public holidays and they are not supposed to attend the duties on those days.

6. On 18-4-2002 charge sheet was served on the Second Party Workman and was discharged from their employment under the guise to hold an enquiry. The enquiry conducted by the First Party on the said charge sheet was farce. No opportunity was given to him. It was initiated and finished on one day only i.e. on 12-6-2001. Documents demanded were not produced, enquiry was conducted violating the principles of natural justice. Charge sheet dated 7-2-2001 was a mere farce. No opportunity was given to the Workman. He was penalized just to create terror in the mind of the other Workmen working there. He submits that the charges on which he was discharged are false and fabricated. The procedure of the enquiry was never explained to the Second Party Workman, no reasoning was given regarding conclusion. The finding is perverse. The action taken by the Management relying on such a finding of discharging him from the employment with effect from 18-4-2002 is illegal, unjustified and bad in law. So he prayed

that the enquiry held by the Management be declared as illegal and bad setting it aside, finding given by the Enquiry Officer be observed perverse and Second Party Workman be reinstated with benefits of back wages and benefits of continuity of service.

7. This claim is disputed by the First Party by filing Written Statement at Exhibit 8 stating that the statement made by the Second Party in the Statement of Claim is not worth to consider. Second Party Workman had habit of remaining absent without permission and intimation. He was doing duty on heavy vehicle AAA as a Driver which is most important in the mining business in which case raw material is collected and exported to various countries. If employee like Second Party Workman remains absent without permission and intimation it causes very inconvenience to the First Party in discharge of their business resulting receiving irreparable loss. First Party largely depend upon the employees' efficiency and their work. Looking to the history of the Second Party Workman involved in this case Reference reveals that he has habit of remaining absent without intimation and permission. On number of occasions he was warned, on a number of times he apologized and undertook to improve his absenteeism/ attendance. Since no improvement was noted First Party had no choice but to serve charge sheet and accordingly charge sheet was served. Enquiry was conducted opportunity was given to Second Party Workman. He and his Defence Representative participated in the enquiry. After giving full opportunity to the Second Party Workman enquiry was concluded. Enquiry Office has ground to observe Second Party Workman guilty of the charges levelled against him. Though there were public holidays it was not like for the Workman to remain absent as claimed by him. As mining business depends upon such workers there is no such opportunity to the Workmen to remain absent on such public holidays as claimed by the Second Party Workman. Even he was served with memos dated 4-2-2002, 11-1-2002 and 27-3-2002. Charge sheet was served on him 7-2-2001. As no improvement was shown by the Second Party Workman in his presency and attendance action of termination was taken which is just proper and does not invite any interference. So it is submitted that Reference sent by the Competent Authority to seek justification of termination behind termination of Second Party Workman does not required to entertain and deserves to be rejected.

8. In view of the above pleadings my Ld. Predecessor framed Issues at Exhibit 26, out of those Issue No. 1 and 2 which are on the point of fairness of the enquiry and perversity of findings are treated at preliminary Issues. Those Issues are as followings :

Issues	Findings
1. Whether the domestic inquiry which was Conducted against the workman was Against the principles of natural justice ?	Yes
2. Whether the findings of the Inquiry Officer are perverse and not based on the evidence before him.	Yes

REASONS :

Issue No. 1 & 2 :

9. To prove that, the enquiry conducted by the First Party is not fair and proper and finding perverse. Workman had examined himself at Exhibit 26, where he states that, he was issued with charge sheet dated 7th February, 2001 and he replied to it on 2nd March, 2001. He has explained that, due to sickness of his wife he was absent. Said reason was communicated by him to his superiors. He states that, his signature was taken by Abdulla Khan calling him in his Chamber. He states that, enquiry was not conducted in his presence. He states that, Management Representative was absent when his signature was taken. He states that, signature of Rohidas Naik was taken by Typist on typed sheet. He claims that, enquiry proceedings was not explained to him. He states that, his signature was taken by Abdulla Khan on typed letter and he did not know the contents of the said letter. He states that, he is not knowing reading and writing English, but, can sign in English. He claims that, findings were not communicated to him. In the cross-examination, this witness States that, by notice at Exhibit 24, enquiry was fixed on 17th April, 2001. He states that, said enquiry was fixed on 12th June, 2001 and he was aware of it. He denied that, he and his representative attended enquiry on 12th June, 2001. He also denied that, he gave authority letter to Enquiry Officer to appoint one Rohidas Naik as his representative. He denied that, he attended enquiry on 12 th June, 2001 with his representative Rohidas Naik. He denies that, on that day enquiry was completed and copy was served on him. He admits that, he has not complained with the Company saying that, his signature was taken regarding enquiry proceedings dated 12th June, 2001. He admits that, he has not stated anything to Management regarding his representative who will appear in the enquiry. He also admits that, he has not complained to Management stating that, signature of Rohidas Naik was taken after his signature. He admits that, he did not produce any documentary evidence regarding sickness of his wife. He denied that, he violated the Rules and invited management to procced against him. He denies that, enquiry was conducted fairly and in just manner. Then Management examined Enquiry Officer Abdulla Khan at Exhibit 28 who states that, enquiry is conducted as per the proccdure and in presence of Second Party Workman and in presence of his representative. He states that, enquiry was conducted on 17th April, 2001 but postponed to 12th June, 2001. He states that, Second Party Workman and his representative Rohidas Naik attended the enquiry on 12th June, 2001. In his cross this witness states that, the aforesaid Exhibit 24, page 22 to 54 were not produced in the enquiry. Representative of the Management was asked to led

evidence for 2001. He admits that leave record of 2001 was not produced in the enquiry proceedings which is not related to the enquiry. He admits that he is employee of the First Party. As per Exhibit "M" he was appointed Enquiry Officer. He states that there is no separate appointment order. He states that he cannot say regarding signature of Second Party Workman on Exhibit M-1 in advance. He denies that Second Party Workman did not attend enquiry on 12th July, 2001. He also denies that he took signature of Second Party on the enquiry proceedings in lunch time. He also denies that Second Party Workman was not represented by Rohidas Naik and he did not explain the charge sheet to the Second Party Workman. He also admits that the Standing Orders were not produced in the enquiry. Alongwith this evidence First Party produced copy of the enquiry proceedings, notice served on Second Party Workman of the enquiry, notice served on Second Party regarding fixation of enquiry date and issuance of charge sheet.

10. The enquiry proceedings placed on record by First Party with Exhibit 24, if perused, reveals that the Enquiry Officer commenced the enquiry and concluded on the very day i.e. on 12-6-2001. It is pertinent to note that witness of First Party was examined and was offered for cross and Second Party was directed to depose, on the very day. Record and proceedings of the enquiry reveals that enquiry was concluded on that day only.

11. The allegations of the Second Party is that neither he nor his representative attended the enquiry and their signatures were taken in lunch period on typed sheet. In that connection, if we, peruse Exhibit M-1 we find it is prescribed typed sheet which is filled in by somebody and it bears signature of Second Party Workman and his colleague i.e. co-employee. It is pertinent to note that this writing is dated 12-6-2001. As per this M-1 it appears that Rohidas Naik agreed to represent Second Party Workman in the enquiry. It is also pertinent to note that on the very day enquiry was commenced and concluded.

12. If we consider this part i.e. taking authority of the alleged representative of the Second Party Workman to represent him and starting of the enquiry on the very day and closing itself reveals, enquiry was conducted by violating the principles of natural justice ? If Exhibit M-1 is seen of 12th June, 2001, and enquiry proceedings reveals that enquiry was initiated and concluded on 12th June, 2001 itself. If that is so, question arises how representative of Second Party Workman, Rohidas Naik, might have prepared for Second Party to participate in the enquiry and cross-examine the witness of the Management ? Besides Exhibit M-1 is in typed form and there is no dispute of the Second Party that his and signature of Nayak as his representative were taken. Besides if the writing of the enquiry itself reveals that enquiry officer has not explained procedure of enquiry and has not explained the charge sheet. It is nowhere stated by the Enquiry Officer that charge sheet was explained to Second Party Workman. Besides Second Party alleges that he was not knowing English still enquiry was recorded in English and Exhibit M-1 is also in English. Besides about Exhibit M-4, he claims that he has explained the reason behind his absenteeism stating that due to sickness of his wife, and no adult male person was in the family, he was unable to report on duty. This contention is taken by the Second Party Workman in his explanation at Exhibit M-4 at page 3. However, it is pertinent to note that when Second Party was examined and offered for cross as per the story of the Management, it is pertinent to note that no question was put on it regarding sickness of his wife and with whom he sent the message to the Company to contradict Second Party on it. When there was no cross on the explanation given by the Second Party, though Second Party explained that due to sickness of his wife, he was unable to report on duty, remained on record as it is. Simply one question was put as per so-called record of the enquiry proceedings that what is the guarantee about attendance of Second Party in future ? So in my considered view the case made out by the Second Party is not at all disputed or denied by First Party or considered by the Enquiry Officer. There is no whisper about the explanation given by the Second Party Workman about sickness of his wife. No question was asked to Second Party Workman about sickness of his wife. Besides admittedly leave record was not produced as admitted by the First Party witness. No explanation was given as to why enquiry was adjourned from 17th April, 2001 to 12th June, 2001. Besides First Party witness is unable to explain what sort of work was done by the Second Party in the establishment of First Party and how it was important. Moreover, it is not shown how absence of Second Party Workman affects on the working of the First Party and what was the loss occurred to it due to absence of the Second Party Workman. All these things are absent.

13. The record and proceedings reveal that enquiry was conducted in a day and was concluded also compelling the Second Party Workman, as per enquiry proceedings, to lead evidence. Even stage of appointing representative was also done on the very day i.e. on the day on which enquiry was initiated and completed. At page 3 of the enquiry proceedings in para-2 of it, Enquiry Officer observed that Second Party Workman remained absent without permission and has violated Clause 21(f) of the Service Standing Orders. It is admitted fact that said Standing Orders were not produced at the time of enquiry. Those are now present in the file of the enquiry. If we peruse so-called 21(f) of Service Standing Order, under which charges are leveled against Second Party Workman. We find it reads like this :

> "21(f) : Habitual absence without leave or absence without leave for more than ten consecutive days or

overstaying sanctioned leave without sufficient grounds or proper or satisfactory explanation."

This clause except absence without leave for more than ten consecutive days and without satisfactory explanation. If we read this Clause and read the charges leveled against the Second Party Workman, we find, absence of the Second Party is not more than ten consecutive days as excepted or it is not with proper or having no satisfactory explanation as he explains that his wife was sick and due to that he remained absent. Even in writing he has given that explanation and there is no cross on that point. Even though stand of the Second Party regarding his absence is not denied by the First Party by putting such suggestion.

14. So considering all this, coupled with haste made by the First Party in initiating, conducting and concluding inquiry in a day, without challenging the stand taken by the Second Party and disputing it sickness of his wife, the reason behind his absence, if read, I am of the considered view that the enquiry was not conducted by following the principles of natural justice. Even the Enquiry Officer has no base to conclude and hold the Second Party Workman guilty for the charges leveled against him. So I have to conclude that the enquiry was not fair and findings were perverse.

15. In view of the discussions made above I conclude that enquiry was not fair and proper and finding perverse. Accordingly I answer these issue to that effect and pass the following order :

ORDER

(a) Enquiry is not fair and proper.

(b) Findings are perverse.

(c) Both the parties are directed to lead evidence to prove the charges leveled against Second Party Workman by attending this Tribunal on next i.e. 17th July, 2006.

Mumbai,
8th May, 2006

A. A. LAD, Presiding Officer

नई दिल्ली, 12 जून, 2006

का. आ. 2444.—जबकि मैसर्स सहारा इंडिया और इसकी चार कम्पनियां नामतः, सहारा इंडिया फाइनेंसियल कार्पो लि., सहारा इंडिया मॉस कम्यूनिकेशन, सहारा इंडिया कमर्शियल कार्पो. लि., सहारा एयरलाईन्स लि. (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त उक्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

और जबकि केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त स्कीम के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

अतः, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, केन्द्र सरकार एतद्द्वारा उक्त प्रतिष्ठान को 1-4-1994 से अगली अधिसूचना तक के लिए उक्त योजना के समस्त उपबंधों के प्रचालन से छूट प्रदान करती है।

[सं. एस-35015/10/2006-एस. एस.-II]
के. सी. जैन, निदेशक

New Delhi, the 12th June, 2006

S.O. 2444.—Whereas M/s. Sahara India and its four Companies namely, Sahara India Financial Corp. Ltd., Sahara India Mass Communication, Sahara India Commercial Corp. Ltd., Sahara Airlines Ltd. (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of Sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of similar character.

Now, therefore, in exercise of the powers conferred by clause (a) of Sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-4-1994, until further notification.

[No. S-35015/10/2006-SS-II]
K. C. JAIN, Director

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